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CONTEMPORARY FORMS OF SLAVERY

Report of the Working Group on Contemporary Forms of Slavery on its fifteenth session

Chairman-Rapporteur: Mrs. F.Z. Ksentini

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I. ORGANIZATION OF THE SESSION

1. The Economic and Social Council, upon the recommendation of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and the Commission on Human Rights, in its decisions 16 (LVI) and 17 (LVI) of 17 May 1974, authorized the Sub-Commission to establish a five-member working group to review developments in the field of the slave trade and slavery-like practices of apartheid and colonialism, the traffic in persons and the exploitation of the prostitution of others as defined in the Slavery Convention of 1926, the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 1956, and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949. The Working Group was established, and since then it has held a session prior to each session of the Sub-Commission. By resolution 1988/42 of 8 March 1988, the Commission on Human Rights endorsed the recommendation of the Sub-Commission that the name of the Working Group on Slavery be changed to "Working Group on Contemporary Forms of Slavery".

2. At its fortieth session, the Sub-Commission, by its resolution 1988/31, approved the programme of work of the Working Group for the period 1989-1991. This programme of work (contained in chapter VI of the report of the Working Group on its thirteenth session, E/CN.4/Sub.2/1988/32) included three main themes to be discussed in successive years: prevention of the sale of children, of child prostitution and of child pornography (1989); eradication of the exploitation of child labour and of debt bondage (1990); and prevention of traffic in persons and of the exploitation of the prostitution of others (1991).

3. The Working Group held its fifteenth session from 30 July to 3 August and on 22 August 1990. The Group held 11 meetings. The session was opened by Mr. Kwadwo F. Nyamekye, Deputy Director of the Centre for Human Rights, Geneva, who made an opening statement.

4. The Sub-Commission on Prevention of Discrimination and Protection of Minorities, by its decision 1989/113, approved the following composition of the Working Group on Contemporary Forms of Slavery: Mr. I. Diaconu, Mr. A. Eide, Ms. F.Z. Ksentini, Mr. Varela-Quiros and Mr. W. Sadi. Since Mr. Varela-Quiros was not re-elected to the Sub-Commission during the elections held at the forty-sixth session of the Commission on Human Rights, Mr. E. Suescún Monroy became the member of the Working Group. Mr. Suescún was delayed and participated from the 8th meeting.

5. The list of participants appears in annex II of the present report.

Election of Chairman-Rapporteur

6. At the 1st meeting, on 30 July 1990, Ms. F. Ksentini was elected Chairman-Rapporteur by acclamation.

II. ADOPTION OF THE AGENDA

7. At the 1st meeting, the Working Group adopted the following agenda:

1. Election of officers.

2. Adoption of the agenda.

3. Review of information received on the status and the implementation of conventions on slavery and slavery-like practices.

4. Main theme of the session: eradication of the exploitation of child labour and of debt bondage.

5. Review of developments in other fields of contemporary forms of slavery, including:

   (a) Slavery and the slave trade;

   (b) Sale of children;

   (c) Child prostitution and child pornography;

   (d) Prevention of traffic in persons and the exploitation of the prostitution of others;

   (e) Slavery-like practices of apartheid and colonialism.

6. Follow-up of recommendations adopted at previous sessions.

7. Adoption of the report of the Working Group to the Sub-Commission.

(For documents made available at the meetings of the Working Group, see annex III).

III. REVIEW OF INFORMATION RECEIVED ON THE STATUS AND THE IMPLEMENTATION OF CONVENTIONS ON SLAVERY AND SLAVERY-LIKE PRACTICES

8. This agenda item was discussed at several meetings of the Working Group, the attention of the Working Group having been drawn to Commission on Human Rights resolution 1990/63 of 7 March 1990. This resolution stated, inter alia, that the Commission welcomed the study prepared by the Secretary-General on ways and means of establishing an effective mechanism for the implementation of the slavery conventions and encouraged the Sub-Commission, including the Working Group on Contemporary Forms of Slavery, to continue its debate on this study and to elaborate recommendations on this issue at its 1990 session.

9. Various opinions and views were expressed by the members of the Working Group as to the possible means available to improve the existing procedures of implementation of the slavery and related Conventions. The question of the relative merits of these Conventions as they exist in their present form was also raised. In this regard, concern over the relevance and applicability of, especially, the 1949 Convention on the Suppression of the Traffic in Persons and of the Exploitation of Others was expressed.

10. Several members also spoke of the appropriateness of improving co-ordination and co-operation between other human rights organs and treaty bodies for the better implementation of provisions relating to contemporary forms of slavery.

11. In view of the need to develop ideas carefully on improving implementation procedures, taking into account the recommendations offered by the Secretary-General in his report, E/CN.4/Sub.2/1989/37, and the suggestions of several non-governmental organizations, it was decided that the Working Group should continue its consideration of this matter at its future sessions. For the present, therefore, the Working Group agreed that it should continue to receive information from States as to the implementation of the slavery-related Conventions. This conclusion is reflected in the recommendation section of this report.

12. Further discussion on this item emanated from the Working Group's attention being drawn to information submitted by States to the fifteenth session of the Working Group. In particular, the response from Portugal was singled out for attention. The Working Group subsequently considered that it would appreciate receiving further information in the future on the situation of child labour in Portugal.

IV. ERADICATION OF THE EXPLOITATION OF CHILD LABOUR AND OF DEBT BONDAGE

A. General

13. The issue of the eradication of the exploitation of child labour and of debt bondage was the main theme discussed at the fifteenth session of the Working Group on Contemporary Forms of Slavery. The greater attention accorded to these problems was reflected not only in the amount of information presented to the Working Group but also in the recommendations for future action proposed by the Working Group.

14. It should be noted that it was not always possible for organizations in their statements to maintain a clear and unequivocal distinction between different contemporary forms of slavery. Thus, several statements revealed, for example, the interrelationship between bonded labour, forced labour, child labour or child prostitution.

15. At the 2nd meeting of the Working Group, 11 non-governmental organizations presented a joint statement with recommendations on the eradication of the exploitation of child labour and debt bondage. The names of the 11 organizations are: Anti-Slavery Society, Defence for Children International, International Abolitionist Federation, International Alliance of Women, International Catholic Child Bureau, International Commission of Jurists, International Council of Jewish Women, International Council of Women, International Federation of Democratic Lawyers, International Federation of Methodist Women and International Federation of Women Lawyers.

16. It was emphasized in the statement that given the realities of the world it was believed that the most serious and inhuman forms of exploitation must be attacked first. These were described as: forced labour camps, debt bondage, brothels, "sweatshops", domestic service and plantation work, the sale of children into employment and other hazardous work and debilitating working conditions.

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17. The observation was made that certain types of exploitation may be changed through political will almost immediately while other forms require a change of attitude, the earmarking of special resources and action at various levels which would be feasible only over the medium and long term.

18. A target timetable for efforts to be undertaken, until the end of the century, to eliminate the most exploitative practices was regarded as essential. The suggestion was made, therefore, that all forced labour camps could be eliminated within 12 months, and that an international pledging conference could be held in 1991 or 1992. 1995 would be the target year for the elimination of the most hazardous forms of work as defined by the World Health Organization and the International Labour Organisation. The year 2000 would be the target for the elimination of all forms of labour outlawed by ILO Convention No. 138 for children under 10 years and a halving of the numbers in the 10-14 years age group.

19. The non-governmental organizations proceeded to offer proposals that would contribute to achieving the targets set. Many of the proposals presented emanated from either the recommendations of prior sessions of the Working Group or former studies on contemporary forms of slavery. Copies of a document listing previous recommendations on the exploitation of child labour and debt bondage was made available to those interested. Recommendations proposed included: the promotion of an information campaign among villagers in particular, employers, parents, children and other groups in countries where child labour and debt bondage exists; the publication and wide circulation of a report by the ILO on the exploitation of child labour; improved implementation mechanisms both at the national and international levels through, inter alia, an effective reporting procedure, fact-finding advisory missions and improved co-operation and co-ordination with other United Nations bodies and agencies dealing with the phenomenon of child exploitation and debt bondage; increased participation of trade unions at the Working Group; and the establishment of a permanent secretariat for the Working Group to act as a focal co-ordination and co-operation point.

20. Responding to the statement, the members of the Working Group thanked the organizations for their important contribution. The members shared the opinion of the organizations that the phenomena of child exploitation and debt bondage were very much linked to the problems of social and economic development, but that concerted action could improve the implementation of minimum age requirements for employment and eradicate employment in hazardous and exploitative types of work. They reiterated the call for improved co-operation with various organizations, bodies and authorities at all levels.

21. The members of the Working Group decided to develop a programme of action for the eradication of the exploitation of child labour and debt bondage after having listened to the various statements and carefully studied all the information available. The draft programme of action is contained in Annex I A of this report.

B. Exploitation of child labour

22. The International Abolitionist Federation in its statements remarked that the phenomenon of child labour existed worldwide. It was stated that nearly 300 million children both in the developed and developing countries were subjected to exploitation through hard labour and debt bondage. The

organization considered that the special vulnerability of children made the possibility of their exploitation much greater and that, of the many ways in which children were exploited for cheap labour, the most atrocious and harmful was sexual labour.

23. Reporting on child labour practices in Brazil, it was stated by the Organization that child labour practices often lead to delinquency and prostitution. Other views put forward suggested that although legislation exists in that country to regulate child labour, in practice this legislation is only invoked to punish the child and not to protect him or her. The fate of street children who initially work as "jacks of all trades" and later fall prey to the temptation of committing small crimes in order to survive or become easy targets for male prostitution was emphasized. It was indicated that efforts to remedy the situation had been proposed by private and public organizations.

24. In another statement, the organization referred to the linkage between child sexual labour and tourism, military bases or drugs. It was alleged that sexual child exploitation is a problem particularly in Bangladesh, India, Myanmar, Nepal, Pakistan, Philippines, Sri Lanka and Thailand.

25. The observer for the Philippines in his statement assured the Working Group that the political will to resolve the problem of child labour and prostitution exists among government circles in the Philippines and that President Aquino had accorded the greatest priority to their eradication. In this regard, the launching of a national programme by the Government, in partnership with many non-governmental organizations, aimed at preventing child prostitution through moral education and civic training, the suppression of this form of exploitation and the social rehabilitation of its victims, was cited.

26. The attention of the Working Group was also drawn to the weight of the debt burden in the Philippines and the third world as an aggravating factor in the eradication of the exploitation of child labour and prostitution. It was emphasized that the problem of the exploitation of children could not be solved unless the issue of the debt burden was equally addressed by the international community.

27. The representative of the International Human Rights Internship Programme spoke of the continued widespread problem of child domestic labour known as restavek in Haiti. Presenting developments on this issue, the organization encouraged the Working Group to join the ILO in monitoring the practice of child domestic labour in Haiti and to co-ordinate efforts with other specialized agencies, such as UNICEF, to establish programmes designed to address the causes and effects of restavek. In its statement, the organization also suggested that the Haitian Government should be encouraged to enforce existing regulatory legislation and work towards the abolition of restavek.

28. The representative of Pax Christi, speaking on the issue of girl child labour in India, mentioned the use of girl child labourers in the hazardous bidi-making industries and match and fireworks factories. Other hazardous child work involving contact with chemical products, carrying heavy weights, the use of unguarded machinery, the shortage of protective equipment, and the

unsafe use of electricity was also highlighted. It was also stated that long working hours, low remuneration, exposure to unhealthy working conditions, long and sometimes permanent separation from families, physical abuse and cruelty were problems existing in many work places. To improve the situation of girl child labourers, the organization proposed a plan of action for voluntary organizations which included, inter alia, the need to campaign at the national level for a system of compulsory health check-ups to be introduced for all child labourers and the records of these check-ups to be maintained; the introduction of life insurance coverage for all child labourers, with special components for girl child labourers; and the extension of employee state insurance medical facilities for all child labourers who are engaged in health-hazardous processes and occupations.

29. Concerning the issue of child labour, the observer for India stated that the policy of the Indian Government is to prohibit the employment of children below the age of 14 in factories, mines and other hazardous areas and to regulate the working conditions of children in their employments.

30. Speaking on the situation of children in Pakistan, the representative of Defence for Children International stated that, in spite, of existing protective legislation, the lack of advocacy and organization among child workers leads to the abuse and exploitation of child labour. Details were given of the work places which thrive on cheap child labour. In this connection, the agricultural sector, carpet industry, motor repairing workshops, transport services, brick kilns, domestic services and cottage industries which manufacture sports goods, cutlery and surgical instruments were cited. In the view of the speaker, legislation alone cannot eliminate child labour or its exploitation. Accelerated social development programmes to raise the economic status of the masses, supplemented by philanthropist and non-governmental action, were needed to prevent child labour and its exploitative characteristics.

31. The organization insisted that strategies designed to develop a public consciousness to enforce rights recognized by the law were required. In this respect, recent efforts by UNICEF Pakistan, the Pakistani media and sympathetic elites to the cause of the unprotected child were described at length. In addition, the opportunities for promoting child survival, development and protection through the World Summit for Children to be organized in New York in September 1990 was emphasized.

32. In a general statement on the deliberations held in the Working Group on various agenda items the observer for Pakistan stated that the persistence of social ills like child labour and bonded labour was in some measure the unfortunate consequence of the persistent and pernicious cycle of poverty in the developing world but that this should not discourage those resolved to eradicate those abhorrent practices. The observer for Pakistan expressed the hope that the forthcoming Summit for Children which would be co-chaired by Benazir Bhutto would provide an opportunity for focusing attention at the highest political level on the different problems and challenges confronting children all over the world.

33. Referring to the written information submitted by the International Labour Office in document E/CN.4/Sub.2/AC.2/1990/5/Add.4, the representative of the International Labour Office stated that the Committee of Experts on the Application of Conventions and Recommendations had included in its annual

report a number of comments concerning the application of the Forced Labour Convention (No. 29) and the Abolition of Forced Labour Convention (No. 105) which were of interest to the Working Group. On the question of the exploitation of child labour and debt bondage, she drew attention to the comments made by the Committee of Experts on the application of Convention No. 29 by Bangladesh, Haiti, Pakistan and Thailand, as reproduced in that document. The Committee of Experts had referred to the discussions and the report of the Working Group at its fourteenth session, and particularly to the information on the exploitation of child labour and debt bondage transmitted by various non-governmental organizations. The Committee of Experts had noted, inter alia, that under article 25 of Convention No. 29, the illegal exaction of forced or compulsory labour was punishable as a penal offence, and Governments had an obligation to ensure that the penalities imposed by law were really adequate and were strictly enforced.

34. The speaker pointed out that child labour is a subject of long-standing and, indeed, constitutional concern of the International Labour Organisation. Given the persistence of child labour and abusive, exploitative, and hazardous conditions under which a large number of the world's children are employed, the Working Group was informed that the International Labour Office is reinforcing its work programme in this area.

35. It was also related that the Office gives special emphasis to the abolition of child labour in hazardous work, including children in bondage and the protection of the youngest and most vulnerable children. In doing so, it follows a two-pronged approach for the promotion of ILO's objectives: information as a tool of advocacy and promoting change; and national level action through an integrated programme of research, training and technical assistance.

36. The observer for ILO stated that, as a result of recent ratifications, the 1973 Minimum Age Convention (No. 138) had now been ratified by 41 States.

C. Debt bondage

37. Several statements were presented by the Anti-Slavery Society on the situation of bonded labour in India, Pakistan, Nepal and Bangladesh. In a general statement on bonded labour, the organization spoke of the recent formation of the Bonded Labour Coalition of concerned organizations in five nations of the Indian subcontinent. The Anti-Slavery Society expressed its support for the call by the Bonded Labour Coalition to urge the Nepalese Government to develop bonded abolition acts. The organization also urged the enactment of the Pakistani Bonded Labour System (Abolition) Act and called upon the Indian Government to set up a National Commission on Bonded Labour composed of both Government appointees and representatives of non-governmental organizations.

38. With regard to the remit of an Indian National Commission on Bonded Labour, it was suggested that it should, inter alia, initiate investigations, ascertain the extent of debt bondage and recommend administrative and judicial measures as necessary. The Anti-Slavery Society reporting on methods that perpetuate the bonded labour system in Pakistan alleged that fear and injustice by landlords and owners, supported by or in alliance with the police, local administration officials, politicians and religious and social organizations was not uncommon. Other allegations related to the beating and torture of bonded labourers and sometimes their wives and children.

39. The organization estimated that about 20 million people in Pakistan fall into the category of bonded labourers, but that the majority of those people do not exist in Government records. Of the bonded labourers in existence in Pakistan, it was estimated that approximately 70 per cent were Christians and 3 per cent Hindus. It was further stated that the plight of bonded labourers had been aggravated by the willingness of Afghan refugees to work as bonded labourers. As a result, the organization had voiced its concern through the local press and through contacts with the Government appealing for, amongst other things, sufficient financial aid to be given to the refugees to ensure that they do not fall into the hands of the drug mafia or exacerbate the bonded labour situation.

40. Information was also forwarded on the activities of the Bonded Labour Front of Pakistan in developing an education programme for bonded labourers, resulting in the opening of 42 schools throughout the country where more than 2,500 children of bonded labourers study. The organization repeated the request that the Government should immediately promulgate adequate and effective legislation for the abolition of the bonded labour system. It also recommended, inter alia, that a tripartite seminar on bonded labour in South Asia be organized under the aegis of the ILO.

41. The observer for Pakistan informed the Working Group that a new law to abolish bonded labour is in the process of being enacted in Pakistan. It was indicated that the proposed law would, inter alia, provide that all customs, traditions, practices, contracts or agreements entered into or in operation before or after the enforcement of the new law, requiring the bonded labourer to perform any work or render any service, would become null and inoperative. The proposed bill also lays down a punishment for the violation of this law of not less than two years' of imprisonment or a fine of not less than RS 50,000 or both.

42. The Anti-Slavery Society in another statement, reported that it had since 1983 been defending the cause of India's 5 million adult bonded labourers and 55 million child labourers in this Working Group. The organization believed the continued gravity and magnitude of the bonded labour system in India was partly a result of the central weaknesses in the functioning and design of the implementation of the Bonded Labour System Abolition Act of 1976. Offering recommendations to improve the efficaciousness of implementation mechanisms, the call for a National Commission on Bonded Labour was repeated. The suggestion of appointing a special rapporteur on bonded labour in the Indian subcontinent was also put forward. As a final note, the organization drew attention to a campaign designed to discourage the incidence of child labour in the carpet industry by educating consumers to ask carpet dealers to place a label on each carpet to indicate that it has not been woven by children. The organization also recommended the Sub-Commission to ask the Indian Government to implement the Child Labour Act of 1986, in order to ban child labour in the carpet industry and other hazardous industries.

43. In reply to the points raised above the observer for India stated that the Indian Government does not deny the existence of debt bondage and the exploitation of child labour in India and is determined to overcome these problems. With regard to the problem of debt bondage, the observer drew the attention of the Working Group to its historical and economic causes and to

the measures taken by the Indian Government to overcome the problem. In this connection, he mentioned that the total number of bonded labourers identified and freed as of 31 March 1990 was 242,160, out of which 210,091 had been rehabilitated. The observer rejected the suggestion made by the Anti-Slavery Society that the Sub-Commission should appoint a special rapporteur on debt bondage for the Indian subcontinent, as the Indian Government was making every possible effort to eradicate the problem and its underlying causes, poverty and underdevelopment.

V. REVIEW OF DEVELOPMENTS IN OTHER FIELDS OF CONTEMPORARY FORMS OF SLAVERY

A. Slavery and the slave trade

44. At the 5th meeting of the Working Group, the Anti-Slavery Society made several statements on practices of slavery. Delivering a statement on Bangladeshi slaves in Karachi Central Prison, the Society estimated that over 80 young Bangladeshi women who were victims of trafficking in slavery were held there. The organization focused its attention on the plight of an eight-year-old girl, Fatima, who had been brought to Karachi from Bangladesh by a slaver. The case of this girl had received international attention through the efforts of a United States lawyer who had been campaigning on her behalf. It was believed that the child had been released from prison into the custody of an alleged trafficker named Nashua Dalal. The organization expressed its concern at this information and raised various questions as to the official policy of Pakistan on trafficking and the imprisonment of trafficking victims rather than traffickers.

45. In the statement submitted by the International League for Human Rights the situation of the Bangladeshi girl who had been held in a Karachi gaol was repeatedly raised. The organization revealed that the child was now missing, having been released to her abductors. The case of this child was used to illustrate the disregard for the overriding principle of the Convention on the Rights of the Child that actions taken "are in the best interests of the child", and the obligations emanating from the 1949 Convention which provided for the aiding and rehabilitation of trafficking victims and the punishment of traffickers.

46. The organization welcomed the initiatives reported in the Pakistani press which suggested that the Government of Pakistan was planning to appoint a commission to monitor the "large-scale smuggling" of women into Pakistan and to visit gaols, collect information about the detainees and make arrangements for their repatriation.

47. In its statement, the organization offered various suggestions for future action to alleviate slavery related problems. They included, inter alia, the establishment of an effective mechanism to monitor the Slavery Conventions and to improve and regularize State reporting on laws enacted and measures taken to deter trafficking and improve aid to its victims. It was also proposed that any system of reporting under the slavery related conventions should be supported by the appointment of a special representative empowered to visit countries where slavery-like practices occur. The organization also called upon the Working Group to make country specific recommendations for remedial action and to undertake consultations with Pakistan into cases of trafficking.

48. In a statement by the observer for Pakistan the Working Group was informed that the specific cases mentioned at the meetings of this Working Group would be investigated in depth over the coming months.

49. The representative of the Anti-Slavery Society in a further statement pointed out that his organization had been expressing its concern at recruitment methods and working and living conditions of Haitian cane cutters in the Dominican Republic for over a decade. Reference was made to the ILO reports which had confirmed that the Haitian and Dominican Republic Governments had been violating ILO Conventions Nos. 29 and 105, which they had both ratified. It was further alleged that the Society had been receiving reports of the use of child labour on the plantations.

50. The organization urged the Working Group to encourage the ILO to establish a permanent presence during the next sugar harvest in November 1990. It also believed that the withdrawal of the Dominican Armed Forces from any recruitment or transportation processes was an essential prerequisite for any progress in the matter. The organization reported that these concerns had been raised at the thirty-eighth session of the Human Rights Committee, when it had discussed the second periodic report of the Dominican Republic.

51. With regard to the concern previously raised, the observer of the ILO referred to the written information submitted by the ILO to the Working Group (see document E/CN.4/Sub.2/AC.2/1990/5/Add.4) which contains comments by the Committee of Experts concerning Brazil, the Dominican Republic, Mauritania and the Sudan. The exploitation of Haitian workers on sugar plantations in the Dominican Republic, listed in point (a) of the said document, was of considerable concern to the ILO supervisory bodies. In its 1990 observation, the Committee of Experts stressed its extreme concern at the contradiction between the stated intentions of the Government and the absence of any information indicating that real progress had been achieved as regards the implementation of measures to ensure the observance of the Abolition of Forced Labour Convention 1957 (No. 105). It was also stated that the Committee on the Application of Standards of the 77th International Labour Conference in June 1990, had noted with grave concern the continued failure of the Dominican Republic to eliminate serious deficiencies in the application of the Convention. As a result the country had been listed under the heading "Continued failure to implement". It was noted that the Committee seldom lists countries under this heading. In the last 10 years it had done so on only three occasions with regard to two countries. This indicated that the Conference Committee had been particularly worried about the situation in the Dominican Republic, especially with regard to the application of Conventions Nos. 105 and 95 on forced labour and the protection of wages, respectively.

52. In another statement, the Anti-Slavery Society reported on the situation of domestic workers. The organization alleged that during the last 10 years an estimated 2,000 to 3,000 domestic workers in Britain alone had suffered conditions amounting to slavery. In the organization's view, present entry requirements to Britain whereby domestic workers were admitted as visitors but not allowed to leave the service of the employer had produced an intolerable but legal situation where the power is totally in the hands of the employer and the status of the employee is frequently reduced to that of a contemporary slave. The organization presented proposals for change which they suggested

should be taken into account by the British Home Office in order to remedy the situation. The organization also considered that one aspect of the recruitment process whereby many women fall into debt to pay recruitment fees seemed tantamount to debt bondage. It was further stated that the phenomenon of domestic slavery existed not only in Britain but in other European countries, the Middle East, Hong Kong and North America.

53. The Anti-Slavery Society proceeded to make another statement concerning its recent efforts to receive permission to conduct research on the situation in the Sudan with regard to allegations of slavery-like practices there. Following this statement, the Sudan and the Anti-Slavery Society reported that the Government of the Sudan through its Mission in Geneva has confirmed its intention to facilitate the research as envisaged in the report of the Working Group on Contemporary Forms of Slavery in 1988.

54. In its statement on Mauritania, the Anti-Slavery Society thanked the Government of the Islamic Republic of Mauritania for facilitating its Director's visit to that country from 30 June to 10 July 1990. The organization indicated that the objectives of the visit were to follow-up on some of the recommendations of the 1984 Expert Mission to Mauritania (contained in document E/CN.4/Sub.2/1984/23) and to make an assessment of the current situation in that country. The organization was of the opinion that, due to the limitations of time, a full assessment of the situation in the country had not been possible.

55. The report of the organization's visit to Mauritania in 1990 contained various references to previous recommendations and raised questions as to the extent of their implementation, particularly with regard to the effect of land reform and other legislation on the ex-slave population. In the report's conclusions, the organization emphasized that although Mauritania had indeed undergone profound changes, especially in terms of its legislative programmes, problems remain to be faced. The organization expressed the hope that the Mauritanian League for Human Rights would be given permission by the Government to undertake a survey into the application of the anti-slavery legislation and that a copy of any report produced from such a survey would be made available at next year's Working Group meetings. The Anti-Slavery Society also alleged that it continued to receive reports of kidnapping, slave-like conditions and punishments affecting escaping slaves and remained to be convinced that the Government of Mauritania was doing all in its power to eradicate slavery and its consequences.

56. The observer for Mauritania responded to the statement made by the Anti-Slavery Society on slavery in Mauritania by declaring that slavery as an institution had disappeared from Mauritanian society a long time ago. In this connection, reference was made to the report of the Sub-Commission's Fact Finding Mission which had confirmed that slavery no longer exists, but that certain attitudes and mentalities prevail; and that those mentalities could not be changed by laws but only by time. He stated that the "kidnappings" and punishments referred to by the Anti-Slavery Society were nothing but imaginary. Concerning the recommendations contained in the report, he referred to the comments presented to the Centre for Human Rights in 1987 on this subject. The observer stated that the topic of slavery in Mauritania had already been dropped from the Sub-Commission's agenda and that no new elements exist to justify a return to the topic.

57. In its final statement under this agenda item the Anti-Slavery Society reported on the practice of forced labour in Myanmar. It was alleged that the army conscripts civilians to act as porters in the civil war. Those destined to become porters may have been seized from ethnic minority villages, they could also be children, pregnant women, the sick or elderly. It was stated that the army also forces alleged political opponents and those who they believe may have contacts with insurgents to act as porters. The porters have had to carry ammunition, food and other supplies, some have been forced to lead troops through suspected or known minefields. It was further alleged that over 1,000 porters lost their lives through execution, ill-treatment, land mines, disease, malnutrition or exhaustion during the 1989-1990 dry season offensive.

B. Sale of children

58. The International Association of Democratic Lawyers alleged that they had received evidence on organ extraction for commercial purposes, inflicted on children in Haiti, Brazil and Colombia. It was stated that under the pretext of illness, human organs are extracted which in view of the social conditions of the children concerned jeopardizes not only their health but also their lives. The organization expressed concern that witnesses who are willing to testify to these human rights abuses put their lives in jeopardy and that as a consequence a fact-finding mission to Latin America on the alleged sale of human organs had to be cancelled.

59. The representative from the World Health Organization drew attention to the two resolutions that WHO's supreme governing body, the World Health Assembly, had adopted on organ transplantation, viz. WHA40.13, adopted in 1987, on the development of guiding principles for human organ transplants and WHA42.5, adopted in 1989, on preventing the purchase and sale of human organs. Copies of both resolutions would be made available at a later date. He cited certain of the preambular paragraphs of these resolutions, demonstrating the Assembly's concern at the "trade for profit in human organs among living human beings" and the desire to "prevent the exploitation of human distress, particularly in children and other vulnerable groups". He commented that the report now being prepared by WHO's Director-General in response to these resolutions would firstly, present an overview of existing legislative and other measures designed to combat commercial transactions in human organs, and secondly, present a set of draft guiding principles on organ transplantation. This report was scheduled to be presented to WHO's Executive Board in January 1991.

60. It was further stated that, to guide the Director-General, an Informal Consultation on Organ Transplantation had been held in Geneva on 2-4 May 1990. Copies of the report (available in English only) were made available to all those attending the meeting of the Working Group.

61. In a statement to the Working Group the observer for Colombia wished to report that the Colombian authorities are not responsible for the events that have taken place with regard to the ill-treatment of children in Colombia and that the Government would carry out the necessary investigations into the affair and would inform the international community of its findings once the responsibilities, sanctions and punishments have been established against the true culprits of this criminal act.

62. Defence for Children International (DCI) informed the Working Group of its report on international adoptions in Ecuador in 1986, stating that where biological parents or child kidnappers had been offered money in exchange for their "services", this must be considered as tantamount to trading in children. The organization expressed its hope that with the enactment in January 1990 of a new Law on Adoption of Ecuadorian Minors this new law will permit the better monitoring of international adoptions and encourage the adoption of Ecuadorian children within their own country. It should be noted that similar information is available in the Secretary-General's report on the adoption of children for commercial purposes and recruitment of children into government and non-governmental armed forces (E/CN.4/Sub.2/1990/43).

63. The organization also drew attention to an inter-country adoption case in Venezuela. The observer for Venezuela indicated that this case was still sub judice and that the initial decision to allow the children to be adopted by foreigners had been taken in good faith.

64. In its second statement to the Working Group, DCI expressed its concern over the use of the term "adoption for commercial purposes" by the Working Group. In light of the future work of the Working Group and that of the Special Rapporteur, the organization proposed a definition of the term along the following lines: "adoptions involving improper financial gains, including trafficking in and sale of children for commercial purposes".

65. Details of the responses to a questionnaire that had been distributed, in the past year, by Defence for Children International (DCI) to certain of its sections and other organizations were presented. It was indicated that trafficking in children for the purposes of labour or adoption had been reported in various countries. It was alleged that the countries implicated included: Lebanon, the Philippines, Sierra Leone, Madagascar, Romania, Germany, Canada (Quebec), Israel, the United States and Bangladesh. An analysis of the situation in different countries was provided in its written statement (copies of which are available in the files of the secretariat).

66. The organization then proceeded to draw the attention of the Working Group to the efforts being undertaken by The Hague Conference on International Private Law to develop a convention on inter-country adoption. (Information in this regard is also available in document E/CN.4/Sub.2/1990/43). In June 1990, a Hague Special Commission meeting on the proposed convention on inter-country adoption was organized. Various suggestions emerging from that meeting were referred to. They included, inter alia, (a) the establishment of a network of national central authorities responsible for overseeing adoptions and (b) structured international co-operation, including assistance to "source countries" in establishing and operating effective supervisory and monitoring mechanisms.

67. Concluding its statement, the organization suggested that the Working Group should encourage Governments of all countries where inter-country adoption is recognized to co-operate actively and fully with The Hague Conference on Private International Law in the formulation of this convention. A recommendation of the Working Group pertaining to this suggestion is contained in the recommendations section of this report.

C. Child prostitution and child pornography

68. The International Save the Children Alliance in its statement referred to the information presented and recommendations offered by Redd Barna at last year's session of the Working Group. The aforementioned recommendations had been expanded upon at the 1990 General Assembly of the International Save the Children Alliance. The recommendations emerging from the 1990 General Assembly were presented to the Working Group. They related to, inter alia, the launching of an international information campaign on child sexual exploitation; the legal protection of child victims of child exploitation; the adoption of laws to prohibit "sex tourism"; and the formulation of development assistance programmes which take into account the needs of children who are potential victims of sexual exploitation. The organization pledged its willingness to promote these objectives and to involve itself fully in their implementation. Another point emphasized by the organization concerned the use of the World Summit as a platform for the promotion and implementation of children's rights.

69. The International Abolitionist Federation reported on minors who had fallen victim to child pornography. It was stated that the phenomenon existed in various countries, including: Switzerland, the United States of America, the Federal Republic of Germany and the Netherlands. In the case of France, details of killings of children in connection with child pornography were referred to.

70. The observer for the Netherlands indicated that child pornography is forbidden in her country and that it is one of the priority issues in the prosecution policy of the Minister of Justice. For the most recent information available on the policy of the Netherlands towards child pornography, the observer referred to document E/1990/33 of the Economic and Social Council.

71. The International Abolitionist Federation also presented information on children and youth prostitution in Belgium. The organization in giving details of recent Belgian efforts to reduce this problem, including the possible creation by the Belgian Justice Ministry of a working group on children and youth problems, paid tribute to the pioneering and inspirational work that had been undertaken in this regard by concerned government bodies and other organizations in Norway.

72. Recommendations offered by the organization referred to the setting up of various governmental bodies to monitor and protect children's rights, especially against exploitation through prostitution. Calls were also made for the further dissemination and improved collation of information on this matter.

73. The International Catholic Child Bureau presented information on: male child prostitution in Argentina, female child prostitution in the Ivory Coast, a campaign to stop child prostitution related to tourism in Asia and the general problem of child pornography. On the issue of male prostitution in Argentina, the findings of a research project on this issue were regularly quoted. According to the report, sex tourism existed in a visible way in the Caribbean, Central America and Brazil as well as at the Argentine border with Uruguay, Paraguay and Brazil. It was also mentioned in the report that

children are easily moved around to service the "flesh trade" in other Latin American countries due to the lack of adequate border controls. A number of recommendations were offered which related, among other things, to the setting up of rehabilitation programmes and the use of the judicial system to prevent organized rackets exploiting children.

74. Concerning female prostitution in the Ivory Coast, four types of prostitution were identified. They were classified as: (a) professionals, mainly Ghaneans and Ivory Coasters, and young girls who were brought to the Ivory Coast to work as maids who were then sold into local prostitution; (b) occasional prostitutes; (c) "blue and white prostitutes", referring to the uniform of young schoolchildren; and (d) street children, mainly consisting of young pregnant girls who had been thrown into the streets or abandoned. The organization stated that it was currently working on an outreach project for street girls who had been abandoned by their families.

75. With regard to the problem of child prostitution related to sex tourism, the results of an international consultation held in Thailand from 1 to 5 May 1990 were referred to. The participants of that meeting had declared, inter alia, that: sex-oriented tourism in Asia and other parts of the third world has not only accelerated but also, in some cases, caused child prostitution; and that the rapid proliferation of HIV among both customers and the prostituted threatens the lives of the hundreds of thousands of children caught in the web. The Working Group was also informed that the participants resolved, inter alia, to launch a co-ordinated international campaign immediately to abolish child prostitution in Asia. A copy of the work plan of the campaign was made available to those who were interested.

76. Other information presented by the organization referred to: recent efforts undertaken in the United States and the United Kingdom with regard to the problem of child pornography; and recommendations to be offered: to the Special Rapporteur on the sale of children and to combat the general problems of child prostitution and child pornography.

77. Having considered the information presented, the Working Group took note, in particular, of the interrelationship between HIV and child prostitution, and suggested that the Special Rapporteurs on AIDS and the sale of children should be made aware of the points raised and receive any information presented which could prove relevant to their respective mandates.

D. Prevention of the traffic in persons and the exploitation of the prostitution of others

78. The representative of UNESCO gave details of a working group which is going to be organized in Washington in March 1991. It was revealed that the working group would mainly focus its attention on studying the 1949 Convention on the Suppression of the Traffic in Persons and the Prostitution of Others, evaluating the principles contained in the Convention and attempting to offer concrete proposals for its improved implementation.

79. The observer for the Netherlands declared that her country is especially interested in the prevention of the traffic in persons and the exploitation of the prostitution of others, which will be the main theme to be addressed by

the Working Group on Contemporary Forms of Slavery in 1991. The objectives of the Netherlands policy on this issue were described. They are to eliminate the traffic in persons and enforced prostitution, to promote the co-ordination of international measures and to improve the monitoring of compliance with relevant international treaties. Further information on this issue communicated by the observer for the Netherlands revealed that the Minister for Foreign Affairs of the Netherlands had requested the drafting of an advisory report on the questions of effective implementation measures with regard to the United Nations slavery-related Conventions and the co-ordination of activities within the United Nations for the combating of traffic in persons.

80. As the main theme of next year's meeting will be the suppression of trafficking and exploitation of prostitution, the Working Group proposed to include a request in the recommendation section of this report for information on this issue to be prepared in advance.

E. Slavery-like practices of apartheid and colonialism

81. The representative of the Pan Africanist Congress of Azania recalled that apartheid had been declared a crime against humanity and had been recognized by the United Nations as a contemporary form of slavery. It was stated, moreover, that Azania after having been christened "South Africa" by the colonialists had lost her right to self-determination and that colonialism is a violation of the norms of jus cogens.

82. As an illustration of the injustice of minority rule in South Africa, the representative quoted the delegate of the United States who had addressed the forty-sixth session of the Commission on Human Rights in the following terms: "Our delegation believes that the right to self-determination is synonymous with majority rule ... The only legal and moral basis of governance ... rests upon consent. It is the only form consistent with the Universal Declaration of Human Rights; and it is the only way that guarantees protection of fundamental liberties."

83. Reference was also made to South African President de Klerk's statement of 2 February 1990 which had resulted in the lifting of the ban on the Pan Africanist Congress of Azania and other political organizations and the release of some political prisoners, including Mr. Nelson Mandela. The representative of the Pan Africanist Congress of Azania drew the attention of the Working Group to the consequences of increased immigration to South Africa, considering it to be a factor contributing to the prolongation of the apartheid system.

84. A brief statement on this agenda item was made by the World Federation of Methodist Women, which had been concerned with the effects on children of the state of emergency and conflict in South Africa. It was also related that this organization, in co-operation with others, particularly Defence for Children International, had developed legal aid and assistance for children affected by the state of emergency.

F. Children in armed conflict

85. Friends World Committee for Consultation re-stated its belief that no child should be recruited into the armed forces or participate in armed hostilities. The organization expressed its continued concern at the forced recruitment of children into military service and the situation of the rehabilitation of child soldiers.

86. The forced recruitment of children was alleged to be practised by inter alia, the Khmer Rouge, Renamo in Mozambique, the Shining Path in Peru and the New People's Army in the Philippines. It was also alleged to be occurring in El Salvador, in Sri Lanka and in Guatemala. Holding children as prisoners of war was alleged to be practised in Cambodia, in Afghanistan by the Mujahadin, in Iraq and Tigre.

87. The organization expressed its desire to receive information from UNICEF and WHO on any programmes they operate which would have a direct bearing on the issue of protecting, assisting or rehabilitating children in situations of armed conflict. In information later presented to the Secretariat of the Working Group the WHO related that the Relief Programmes Unit of the Division of Emergency Relief Operations has ongoing programmes related to disabled children wounded in a situation of armed conflict.

88. Friends World Committee for Consultation offered four proposals for the consideration of the Working Group. Firstly, that the Sub-Commission should continue to be concerned with the militarization of children and conduct a study of children in situations of armed conflict. Secondly, that the Sub-Commission should request the Secretary-General to facilitate co-operation between the Centre for Human Rights and United Nations bodies in the planning, execution and evaluation of specific projects to protect children from militarization. Thirdly, that the Sub-Commission should ask the Secretary-General to harmonize public information activities, including the World Campaign for Human Rights, in relation to the dissemination of information for children in especially difficult circumstances. Fourthly, that the Sub-Commission should invite UNESCO to give further study to the military education of minors in schools and youth organizations.

89. Responding to the points raised above, Mr. Eide and Mr. Sadi indicated that the issue was an important one. Mr. Eide suggested that the recommendations offered could be expressed in the recommendations to be endorsed by the Working Group. Mr. Sadi further suggested that the issue could be dealt with as a separate item of the Sub-Commission.

90. The delegate from Ethiopia wished it recorded that the two administrative regions of Tigre and Eritrea are part and parcel of Ethiopia and that any reference to them as separate states is totally unacceptable.

91. International Save the Children Alliance with its 22 member organizations expressed its deep concern about the violations of the rights of children in situations of armed conflict. The organization stated that its member organizations had been faced with this acute problem in their programme of work in the Middle East, in the Horn of Africa, in southern Africa, in Central America and South-East Asia. The organization, therefore, supported the suggestion of the Quakers organization that the Sub-Commission should

undertake a study on the overall involvement of children in armed conflict. Further information presented by the organization related to the range of rehabilitative services the organization had been able to provide for children who had been forced into situations of armed conflict or affected by armed conflict in Mozambique, Uganda, Gaza, Sofala, Maputo, Zambezia, Inhambane, Tete and Manica Provinces.

92. Defence for Children International in its statement to the Working Group also insisted that the issue of children in armed conflict deserved greater attention. Mention was also made of the plight of Iranian child soldiers held as prisoners of war in Iraq. It was suggested that this concern should be taken into account when the Working Group decides upon its recommendations for future action.

93. Commenting on the information presented, the observer for Venezuela indicated, among other things, that she favoured a positive response from the Working Group and the Sub-Commission to the proposals offered by the non-governmental organizations on the issue of children in armed conflict and that she would also like to stress the linkage between refugees and child soldiers.

VI. FOLLOW-UP OF RECOMMENDATIONS ADOPTED AT PREVIOUS SESSIONS

94. The Chairman reviewed the decisions adopted by the Working Group at its previous session, as contained in document E/CN.4/Sub.2/1989/39, and assessed their implementation.

95. The follow-up of the recommendations on the sale of children, child prostitution and child pornography had been highly satisfactory. The resolutions proposed in paragraphs 116 and 118 and contained in annexes I and II to the report had been adopted by the Sub-Commission and subsequently the Commission on Human Rights, before being endorsed by the Economic and Social Council. The Working Group therefore had a Programme of Action which would transmitted to Governments and competent international organizations for comments and observations. On the basis of the observations received, the Working Group would have to assess the implementation of that Programme and the possibilities of strengthening it. The Economic and Social Council had also endorsed the decision of the Commission on Human Rights to appoint a Special Rapporteur for a period of two years to consider matters relating to the sale of children, child prostitution and child pornography, including the problem of the adoption of children for commercial purposes. Mr. Vitit Muntarbhorn had been appointed Special Rapporteur. The Working Group now had to consider the best way of establishing close co-operation with the Special Rapporteur.

96. The recommendation in paragraph 117, whereby the Working Group had called on the Sub-Commission to study the possibility of drafting model laws to combat sale of children, child prostitution and child pornography, had not been examined by the Sub-Commission. The recommendation should be repeated and incorporated in the text of a resolution, so that the Sub-Commission could consider the matter.

97. Concerning the recommendations on child labour and bonded labour, the recommendation contained in paragraph 119 was being applied through the activities of the current session. It had not been possible to implement the

recommendations in paragraphs 120 and 121 because of their general character, their imprecision and the fact that they had not been incorporated in a resolution.

98. With regard to the traffic in persons and the exploitation of the prostitution of others, the recommendations in paragraphs 122 and 123 would be implemented in 1991, when the question would be the main theme of the Working Group's session. UNESCO had responded favourably to the recommendation in paragraph 124 relating to the organization of its seminar in 1991 in such a way that the results of the seminar would be available for consideration at the Working Group's sixteenth session. UNESCO had indicated that the meeting of the Working Group on the Convention for the Suppression of Traffic in Persons and of the Exploitation of the Prostitution of Others would be held at Washington, United States of America, in March 1991 and had invited the Chairman of the Working Group to participate in the meeting.

99. It was not possible to make an accurate assessment of the recommendation in paragraph 125 at the present stage. It would be desirable for the Group to examine the problem of the protection of migrant women against exploitation in the form of prostitution and other slavery-like practices.

100. With regard to the recommendation in paragraph 126, it was worth noting that the United Nations General Assembly had now adopted the Convention on the Rights of the Child, which undoubtedly constituted a new stage in the promotion and protection of the rights of children.

101. As to the recommendation in paragraph 127 concerning slavery-like practices of apartheid and colonialism, the Group should place greater emphasis on those practices at its future sessions and should pay more attention to the phenomena deriving therefrom and to their adverse consequences for the most vulnerable groups of the population, more particularly women and children.

102. In connection with the recommendation in paragraph 128, the Group was invited to pursue its discussion on the establishment of an effective mechanism for implementing the slavery conventions. That discussion had been initiated by the Group on the basis of the Secretary-General's report (E/CN.4/Sub.2/1989/37) and it should be continued until the recommendations called for by the Commission on Human Rights in resolution 1990/63 were elaborated.

103. Concerning the observations in paragraphs 129, 130 and 131, the Group had reason to be satisfied with the documents prepared by the Secretariat. The activities of the Working Group called for the assignment of a full-time professional staff member of the Centre of Human Rights to attend to the work. Efforts to strengthen the human and financial resources made available to the Group and the participants should be continued. The establishment of a Trust and/or Voluntary Fund to facilitate greater participation in the Working Group had not yet been achieved.

104. The resolution referred to in paragraph 132 and contained in annex IV to the report had been adopted by the Sub-Commission, which had thereby paid a tribute to the Anti-Slavery Society on the one hundred and fiftieth anniversary of its establishment.

VII. RECOMMENDATIONS ADOPTED AT THE FIFTEENTH SESSION

General

105. A review of the information provided to the Working Group and of the problems brought to its attention shows that, despite the progress made in the protection of human rights and the preservation of human dignity, there are still, all over the world, certain forms of slavery which run counter to human values. The Working Group considers that further efforts are required with a view to eliminating all vestiges of slavery of whatever form before the end of the twentieth century.

106. In this common endeavour, the efforts of all those of goodwill must be pooled and national and international action must be directed towards finding the most effective ways and means for dealing with all dimensions of the problems, whether political, economic, social or cultural.

107. This goal can be achieved only through the commitment of the peoples and individuals concerned, social progress and world economic development based on justice and solidarity.

108. The main cause of contemporary forms of slavery is poverty. However, poverty cannot justify their persistence.

109. The Group therefore calls for effective action to make the 1990s the decade of the elimination of the most odious forms of slavery, such as apartheid, and contemporary forms of slavery affecting particularly vulnerable groups of individuals such as the sale of children, prostitution, exploitation of child labour, traffic in persons and the use of children in armed conflicts or as agents for organized crime or drug trafficking.

110. The Group also expresses the hope that the end of the twentieth century will coincide with the eradication of all forms of slavery.

111. The Group welcomes the adoption of the Convention on the Rights of the Child, whose entry into force will serve to strengthen the legal protection afforded to children. In this connection, the Group calls upon States to ratify the Convention promptly and implement it effectively.

112. The Group also welcomes the forthcoming World Summit for Children to be held at New York in September 1990, which will undoubtedly constitute a decisive stage in dealing with problems affecting children and defining appropriate solutions to benefit children, who represent the future of mankind.

Recommendations

Eradication of the exploitation of child labour and of debt bondage

113. Having examined at great length the main theme of the 1990 session, the Working Group expresses its deep gratitude to all participants for the comprehensive information provided on the world-wide phenomenon of exploitation of child labour and that of debt bondage, and concludes that urgent action is required to prevent and eliminate these practices;

114. Recommends, therefore, to the Sub-Commission the adoption of the resolution in annex I (A) containing a programme of action for the elimination of the exploitation of child labour;

115. Further recommends to the Sub-Commission the adoption of the resolution contained in annex I (B) concerning the other matters considered at the Working Group's fifteenth session.

Debt bondage

116. Takes note of the comprehensive information on debt bondage provided by non-governmental organizations and the constructive responses given by Government observers;

117. Recommends that Member States, where the phenomenon of bonded labour exists, be urged to enact laws to deal with the problem of debt bondage and to take effective means, especially at the implementation level, to eradicate bonded labour, e.g.:

(a) By effective dissemination of national legislation on labour rights and on the prohibition of bonded labour particularly directed towards victims of bonded labour;

(b) By invoking to the fullest extent the constraining power of the law against the violators;

(c) By setting up monitoring committees under the law;

(d) By seeking and encouraging the involvement of non-governmental organizations;

118. Recommends that all competent United Nations organs, specialized agencies, development banks and intergovernmental bodies involved in development projects ensure that their projects do not perpetuate or involve bonded labour, that they contribute to its elimination and that transnational financial benefits be provided to liberated bonded labourers within the framework of rehabilitation measures;

119. Recommends that products, such as carpets, whose manufacture is liable to involve child labour should bear a special mark guaranteeing that they have not been produced by children. In this context, consumers should be alerted so that they will demand products bearing such a mark. To this end, information campaigns should be conducted with a view to the boycotting of all goods produced on the basis of the exploitation of child labour;

120. Emphasizes the importance of information in combating debt bondage, particularly in the villages of countries where such a situation affecting children exists;

121. Recommends to the Sub-Commission the inclusion of a study of this question in the updated report of Mr. Bouhdiba on the exploitation of child labour;

122. Invites the International Labour Organisation to consider the possibility of envisaging a seminar or a workshop on bonded labour at the earliest opportunity in relation and in co-operation with other interested agencies and United Nations bodies;

123. Decides to keep this question under consideration and to assess the progress achieved, with a view to the elimination of this intolerable practice.

Sale of children, child prostitution and child pornography

124. Welcomes the Sub-Commission's endorsement of the programme of action for the prevention of the sale of children, child prostitution and child pornography and the Commission's decision to transmit that programme to Governments, specialized agencies and other intergovernmental and non-governmental organizations, with a request that the Secretary-General should submit to the Commission at its forty-seventh session a summary of the replies received;

125. Takes note of the information provided and the proposals put forward at the present session;

126. Decides to transmit this information and these proposals to the Commission for inclusion in the Secretary-General's summary which will serve as a basis for an evaluation of the implementation of the Programme.

Special Rapporteur to consider matters relating to the sale of children, child prostitution and child pornography, including the problem of the adoption of children for commercial purposes

127. Welcomes the appointment of Mr. Vitit Muntarbhorn for a two-year period as Special Rapporteur of the Commission on Human Rights;

128. Takes note of the information on these problems supplied by the participants in the work of the Group's fifteenth session and decides to transmit this information to the Special Rapporteur, along with the recommendations relating to his mandate;

129. Invites the Special Rapporteur to consider ways and means of co-operating with the Working Group.

Prevention of traffic in persons and the exploitation of the prostitution of others

130. Takes note of the information on this question supplied by the participants in the current session and decides to make an in-depth study of the problem at the sixteenth session in 1991, of which it will be the main theme; and, to this end, requests the Secretary-General to prepare appropriate documentation on the basis of the information received;

131. Decides to consider in greater depth the allegations concerning trafficking in organs and invites the World Health Organization to inform the Working Group of the results of its work on the question of organ transplantation, particularly in the area of standard-setting;

132. Invites the participants to reflect on concrete proposals which might be formulated in this context, inter alia for the preparation of a possible action programme;

133. Welcomes the decision of UNESCO to convene a working group on this subject at Washington in March 1991.

Slavery-like practices of apartheid and colonialism

134. Reiterates its previous recommendation that under this agenda item more attention should be given at future sessions to the situation of vulnerable groups, particularly women and children;

135. Takes note of the information provided on the growing immigration into South Africa, which could serve to maintain the system of apartheid;

136. Invites the International Labour Organisation to inform the Working Group of the results of the work of ILO bodies dealing with problems of employment and labour under the apartheid régime.

Child soldiers

137. Takes note of the information presented on this issue at the present session of the Working Group and expresses appreciation for the Secretary-General's report on, inter alia, the recruitment of children into government and non-governmental armed forces, E/CN.4/Sub.2/1990/43 and Add.1 and decides to include this question in the agenda of its sixteenth session.

Machinery for monitoring the international slavery conventions

138. Stresses the need for close co-ordination between the work of the Working Group and that of the committees set up under international human rights conventions, as well as the co-operation with ILO bodies dealing with the application of international labour conventions;

139. Considers that the Working Group remains the focal point for monitoring the conventions concerning slavery in all its forms and for receiving and examining reports from States parties to those conventions;

140. Decides to go on considering such reports while placing emphasis, in its activities, on the study of contemporary forms of slavery;

141. Further decides to continue its study of ways and means of strengthening the machinery for monitoring the implementation of those conventions in order to give effect to Commission on Human Rights resolution 1990/63, which requests the elaboration of recommendations on the subject.

Main theme for 1992

142. Decides not to select any main theme for the Group's seventeenth session, which will be devoted to an overall evaluation of the three main themes for the fourteenth, fifteenth and sixteenth sessions, as well as the consideration of any crucial, serious or urgent matters. The idea of holding an international pledging conference to help put an end to the exploitation of child labour will be considered as part of this overall evaluation.

Miscellaneous

143. Welcomes the work of The Hague Conference on Private International Law with a view to the preparation of a Convention on Intercountry Adoption, and calls upon States to co-operate actively in the elaboration of such a Convention;

144. Notes with satisfaction that the Secretariat prepared an annotated agenda for the fourteenth and fifteenth sessions of the Working Group and recommends that this practice should be continued;

145. Again requests the Secretary-General to assign to the Working Group a full-time Professional staff member of the Centre for Human Rights to prepare documentation well in advance and facilitate the attendance at the Working Group's sessions of the largest possible member of intergovernmental and non-governmental organizations with competence in the fields examined.

VIII. ADOPTION OF THE REPORT OF THE WORKING GROUP TO THE SUB-COMMISSION

146. The Working Group adopted its report without a vote on 22 August 1990.

ANNEX I

A. Draft resolution

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Taking note of the report of its Working Group on Contemporary Forms of Slavery on the work of its fifteenth session, the main theme of which was elimination of the exploitation of child labour and debt bondage,

Recognizing the extremely serious nature of the information presented and the need for the international community urgently to adopt measures to prevent such practices,

Considering that it is therefore desirable to launch a concerted programme of action as soon as possible, endorses the programme of action drawn up for this purpose by its Working Group on Contemporary Forms of Slavery,

Recommends to the Commission on Human Rights the adoption of the following draft resolution:

The Commission on Human Rights,

Having examined the report of the Working Group on Contemporary Forms of Slavery submitted to the Sub-Commission on Prevention of Discrimination and Protection of Minorities at its forty-second session;

Having taken note with deep anxiety of the information relating to the world-wide phenomenon of the exploitation of child labour,

Noting also that most of the victims of such exploitation are children from countries of the third world facing development problems,

Gravely concerned about the consequences of these practices for the children who are their victims,

Having examined the various elements of the programme of action proposed by the Sub-Commission,

1. Endorses the views expressed by the Sub-Commission on the need to adopt a concerted programme of action to combat these practices;

2. Decides to transmit the attached draft programme of action to Governments, to the specialized agencies and other intergovernmental organizations, and also to non-governmental organizations, for their comments;

3. Requests the Secretary-General to submit to the next session of the Commission a summary of the replies received;

4. Further decides to examine, at its forty-eighth session, the draft programme of action and the report of the Secretary-General.

Programme of action for the elimination of the exploitation of child labour

General

1. In spite of the progress made in combating the exploitation of child labour, in particular through the development of national and international norms, which have defined the bases of legal protection, and of mechanisms for monitoring their application, the exploitation of child labour still remains a current and widespread phenomenon of a serious nature in various parts of the world.

2. This phenomenon, which is both complex and world-wide, varies from one country to another. Although the industrialized countries are not spared, it affects the developing countries more particularly, and within each country the more vulnerable groups of the population. Poverty is often the main cause of child labour. But generations of children should not be condemned to exploitation until poverty is overcome. Underdevelopment cannot justify the exploitation of which children are the victims. The Governments concerned and the international community as a whole must not wait for development problems to be adequately solved before attacking the phenomenon of the exploitation of child labour. Besides the long-term action which should be initiated with a view to treating the deep causes underlying the exploitation of child labour, it is essential that urgent measures and medium- and short-term action be taken to meet the immediate needs of the children who are exposed to the gravest dangers, while making sure that such action is integrated into economic and social development strategies.

3. High priority should be given to the eradication of the most odious forms of child exploitation, in particular child prostitution, pornography, the sale of children, the employment of children in dangerous occupations and debt bondage.

4. The international community should place particular emphasis on the new phenomena of the exploitation of child labour, such as the use of children for illegal, clandestine or criminal purposes, including their implication in the narcotic drugs traffic or in armed conflicts or military activities.

5. The action should be directed, first, towards the most dangerous forms of child labour and the elimination of work by children under 10 years of age, with a view to the total eradication of child labour as prohibited by the provisions of the relevant international instruments.

6. Special attention should be paid to the most vulnerable categories of children: children of immigrants, street children, children of minority groups, indigenous children, children of refugees, children in occupied territories and those under the apartheid régime.

7. In order to reach the core of one of the prime causes of exploitation of child labour, which is poverty, increased resources should be made available through bilateral and multilateral channels for the elimination of the exploitation of child labour. Eradication of the phenomena linked with the exploitation of child labour calls for social measures and development assistance. Their prevention will require deep structural reforms in the economic, social and cultural spheres.

8. Particular attention should also be given to social rehabilitation, education and information. It is also important that the means of protecting children should be strengthened by development, the reinforcement of legislation and proper application of the relevant laws.

9. Adequate means and concerted measures are necessary at the local, national, regional and international levels.

Information

10. The public could be made aware of the problem and the different aspects of the exploitation of child labour by national and international information campaigns. The extent of the problem cannot be accurately defined by reference to the statistics from various sources. The sectors favouring the exploitation of child labour should be specially targeted (agriculture, non-structured urban sector and domestic service). It is important to reach the children who are still invisible victims up against parallel employment networks. At the national level it is necessary to develop means of investigation and supervision by labour inspectors in order to detect and prosecute cases of exploitation of child labour, so as to break up the clandestine employment networks. The information campaign should also be able to reach children direct, in order to inform them of their rights and make them aware of the risks they run.

Education and vocational training

11. There is undoubtedly a link between child labour, illiteracy, school failure and the lack of vocational training. Massive literacy programmes, combined with legislation making basic training obligatory and free, as well as measures to combat school wastage and develop vocational training are extremely necessary. Such programmes could be supported by community campaigns to increase the awareness and motivation of families.

Social action

12. The economic and social causes of the persistence of child labour, including the fact that it is seen in many cases as a means of survival for the children and their families, should be taken up in order to offer an alternative that will take their children out of the circle of poverty and exploitation. Urgent measures could be taken on behalf of children who are subjected to high physical and moral risks. It is important to give them protection and assistance, including social and medical assistance, while at the same time pursuing the objective of eradication of child labour. These urgent measures should be backed up by programmes of social rehabilitation.

Development aid

13. For many countries, the implementation of local, regional and national programmes on behalf of children requires appropriate international aid and a deeper commitment of the international community, whether through specific projects or through development assistance.

Labour standards and their application

14. States should adhere to the international standards in force and ensure that they are rigorously applied. It is important that, in accordance with article 1 of ILO Convention No. 138, States should undertake "to pursue a national policy designed to ensure the effective abolition of child labour and so to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons". National legislation should explicitly prohibit dangerous or high-risk employment and prescribe penalties for employers who break this law.

In at least three cases the exploitation of child labour is no less than a flagrant crime which violates the Charter of the United Nations, the principles of the Charter and the Universal Declaration of Human Rights, the most elementary principles of morality and all positive laws. Energetic repressive action is called for in these cases, namely:

(a) Sale and similar practices (serfdom, bond service, fake adoption, abandonment);

(b) Child prostitution, trafficking in pornography, involving the sexuality of children, and the international traffic in girls and boys for immoral purposes;

(c) Under-age maidservants in a position of servitude.

Duties of States

15. States should fully apply the provisions of the Declaration of the Rights of the Child of 20 November 1959 (resolution 1386 (XIV)), and more particularly:

> Principle 2, according to which "The child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity".
>
> Principle 9, according to which "The child shall be protected against all forms of neglect, cruelty and exploitation. He shall not be the subject of traffic, in any form".

16. States should consider the possibility of ratifying the Convention on the Rights of the Child as soon as possible and in this context should fully implement, in particular, article 32, which reads as follows:

> "1. States parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States parties shall in particular:

(a) Provide for a minimum age or minimum ages for admission to employment;

(b) Provide for appropriate regulation of the hours and conditions of employment;

(c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article."

17. Noting that over 40 countries have ratified ILO Convention No. 138, those that have not done so should take appropriate steps to ratify this Convention. In this connection, greater assistance from ILO should be extended to the developing countries to facilitate their increased participation in standard-setting activities and in the implementation of ratified conventions.

18. States should sign and implement policies and programmes to narrow the gap between legislation and its implementation in practice.

19. States which have not already done so should review their legislation in the field of child labour with a view to absolute prohibition of employment of children in the following cases:

Employment before the normal age of completion of primary schooling in the country concerned;

Under-age maid service;

Night work;

Work in dangerous or unhealthy conditions;

Work concerned with trafficking in and production of illicit drugs;

Work involving degrading or cruel treatment.

20. States should take preventive and curative measures, including the strengthening of their legislation, to combat the phenomena of the exploitation of child labour, such as the use of children for illegal, clandestine or criminal purposes including the traffic in narcotic drugs or in armed conflicts or military activities, or any other form of conflict.

21. States should, where necessary, undertake development programmes with a view to:

Making primary education compulsory and available free to all;

Assisting and encouraging families in order that their children may continue their education, in order to combat the phenomenon of school drop-outs;

Adapting school curricula to the preparation of a child for a career; Improving the training programmes of professional workers dealing with child labour, in particular labour inspectors, social workers and magistrates, with a view, in particular, to making them more sensitive to the needs of children;

Establishing or improving medical services for children.

22. States should ensure the availability of a sufficient number of work inspectors and train them systematically to deal with cases of exploitation of child labour. Particular attention should be given to national and regional plans for social and economic development to the occupational training of young people. National development plans should also include a section devoted particularly to the employment of young people, and to methods of ensuring that the most deprived have sufficient resources to be able to protect themselves from conditions leading to exploitation.

23. All member States should endeavour to establish national agencies or institutions to promote the rights of children and to protect them from any form of exploitation.

Role of United Nations organs and specialized agencies

24. ILO should be encouraged in its activities in the framework of its work programme regarding child labour. Other specialized agencies and United Nations organs should develop or reinforce their activities in the field of child labour.

25. All competent United Nations agencies, development banks and intergovernmental bodies involved in development projects should ensure that no child is employed either directly or through local sub-contractors.

26. The United Nations and specializd agencies, having regard to their special responsibilities in the field of child labour, should pay special attention to the situation of children in South Africa and in the occupied Arab territories.

27. While the question of exploitation of child labour should primarily be dealt with in ILO, the United Nations human rights organs should continue to be concerned with this question in the framework of the rights of the child in general. The Sub-Commission should continue to have responsibility in this field.

28. The United Nations and the specialized agencies, including the University of the United Nations, should continue to incorporate in their programmes a series of interdisciplinary and multinational projects for comparative research into the various aspects of the exploitation of child labour throughout the world and in particular in the countries of Africa, Asia and Latin America.

29. The United Nations and specialized agencies should reinforce their programmes related to the elimination of the exploitation of child labour, and in particular to the study of the economic, social, legal and cultural factors which give rise to it.

Co-operation at the local, national and international levels

30. All principal steps should be taken by Governments, international organizations and non-governmental organizations to increase awareness, amongst children, parents, workers and employers, of the causes and the adverse effects of child labour, and measures to combat its exploitation. Such steps could include the wider dissemination of relevant international instruments translated, where appropriate, into other languages in addition to the official languages of the United Nations.

31. Support should be given to non-governmental organizations concerned with the problems of child labour, particularly at the community level, and a constructive partnership should be evolved between Governments and non-governmental organizations.

32. The United Nations organs and specialized agencies dealing with the problem of child labour should seek the co-operation of national and international trade unions.

33. Appropriate and necessary forms of support should be given to NGOs at all levels, especially community organizations, concerned with the problem of child labour.

34. Concerned United Nations organs and specialized agencies should examine the possibility of promoting an information campaign among villagers, employers, parents, children and other groups, in countries where child labour exists.

35. Members of the international community should co-operate in order to assist developing countries in creating conditions under which child labour could be entirely eradicated.

B. Draft resolution

The Sub-Commission,

Taking note of the report of its Working Group on Contemporary Forms of Slavery on the work of its fifteenth session,

Deeply concerned at the information relating to the exploitation of child labour, debt bondage, the sale of children, child prostitution and child pornography, the traffic in persons and the exploitation of the prostitution of others, slavery-like practices of apartheid and colonialism, and the phenomenon of child soldiers,

1. Expresses its appreciation to its Working Group on Contemporary Forms of Slavery for its valuable work, in particular the progress made at its fifteenth session in executing its programme of work, and for its continued broad approach and flexible methods of work.

A. Exploitation of child labour and debt bondage

2. Notes with satisfaction that the Working Group decided to make the problem of exploitation of child labour and of debt bondage the main theme of its fifteenth session and has defined a programme of action to combat these intolerable practices;

3. Welcomes the adoption by the General Assembly of the Convention on the Rights of the Child and calls on States to ratify it;

4. Also welcomes the forthcoming World Summit for Children to be held under the auspices of the United Nations in September 1990;

5. Requests the Commission on Human Rights to authorize it to consider the possibility of appointing a special rapporteur to update Mr. Bouhdiba's report on the exploitation of child labour and extend that study to the problem of debt bondage;

6. Invites the Secretary-General to recommend the ILO to consider the possibility of holding a seminar or workshop on debt bondage, in relation and co-ordination with other organizations and agencies of the United Nations;

B. Sale of children, child prostitution and child pornography

7. Welcomes the decision of the Commission to transmit the programme of action adopted by the Working Group at its fourteenth session to Governments, intergovernmental organizations and non-governmental organizations, and requests the Secretary-General to submit an analytical summary of the replies received to the forty-seventh session of the Commission;

8. Takes note of the information and proposals relating to this programme supplied to the Working Group at its fifteenth session;

9. Decides to transmit this information and these proposals to the Commission on Human Rights and to request the Secretary-General to include them in the analytical summary;

10. Welcomes the appointment of Mr. Vitit Muntarbhorn as Special Rapporteur of the Commission on Human Rights for a term of two years, to consider matters relating to the sale of children, child prostitution and child pornography, including the problem of the adoption of children for commercial purposes;

11. Takes note of the information supplied to the Working Group on these problems and decides to transmit this information to the Special Rapporteur, including the recommendations concerning his mandate, and invites the Rapporteur to examine ways and means of co-operating with the Working Group on Contemporary Forms of Slavery;

12. Requests the Centre for Human Rights to obtain, for the 1991 session of the Working Group, the reports of the meetings recommended within the framework of UNESCO, WHO and other international bodies, on the traffic in persons, prostitution, the traffic in children for purposes of adoption and organ transplants, and on other subjects within the mandate of the Working Group;

C. Child soldiers

13. Expresses its deep concern at the fact that in many regions of the world children are still taking part in hostilities and are being recruited into the armed forces, and that certain Governments and non-governmental entities encourage and sometimes compel children to take military training and participate in hostilities;

14. Deplores the fact that many child soldiers have been killed or seriously wounded and that others are languishing as prisoners of war;

15. Welcomes the decision of the Working Group to place this question on the agenda for its sixteenth session and invites the Working Group to make recommendations;

D. Miscellaneous

16. Requests the Working Group to study the possibility of preparing guiding principles for combating the various contemporary forms of slavery, endeavouring to identify the spheres in which such guiding principles could be applied;

17. Recommends the Human Rights Committee, when it examines the periodic reports of States parties to the International Covenant on Civil and Political Rights, to give increased attention to the implementation of the provisions of articles 8 and 24 of the Covenant, with a view to the elimination of acts which gravely impair the rights of the child, in particular contemporary forms of slavery;

18. Recommends the Committee on Economic, Social and Cultural Rights when it examines the periodic reports of States parties to the International Covenant on Economic, Social and Cultural Rights, to give particular attention to the implementation of articles 10, 12 and 13, with a view to improving the situation of children and eliminating the contemporary forms of slavery affecting children and the exploitation of child labour;

19. Recommends the Committee on the Elimination of Discrimination against Women, when it examines the reports of States parties to the Convention on the Elimination of All Forms of Discrimination against Women, to give particular attention to the implementation of the provisions of article 6, with a view to the suppression of all forms of traffic in women;

20. Recommends the ILO supervisory bodies and the UNESCO Committee on Conventions and Recommendations to give particular attention in their work to the implementation of provisions and standards designed to ensure protection of children and other persons exposed to contemporary forms of slavery, such as the sale of children, child prostitution and child pornography, the exploitation of child labour, bonded labour and the traffic in persons;

21. Recommends the Committee on the Rights of the Child, which is to be set up in accordance with article 43 of the Convention on the Rights of the Child, to devote full attention to the phenomena which most gravely impair the rights of the child, in particular, contemporary forms of slavery such as the sale of children, child prostitution and child pornography, the exploitation of child labour and bonded labour;

ANNEX II

Attendance

I. Members of the Working Group

Mr. I. Diaconu
Mr. A. Eide
Mrs. F.Z Ksentini
Mr. W. Sadi
Mr. E. Suescún Monroy

II. States Members of the United Nations represented by observers

Austria	Mr. C. Strohal
Belgium	Ms. D. Struye de Swielange
Colombia	Ms. L. Galvis
El Salvador	Mr. C.E. Mendoza
Ethiopia	Mr. N. Worku
France	Mr. D. Jacques
Ghana	Mr. H.O. Blavo
India	Mr. P. Dayal
Japan	Ms. M. Tatematsu
Mauritania	Mr. M.S. Ould Mohamed Lemine
Netherlands	Ms. E.D. Teekamp
Pakistan	Mr. M.A. Khan
Philippines	Mr. H. Villarroel
Sweden	Ms. L. Mirow
Venezuela	Ms. M-E. Ruesta de Furter

III. Specialized agencies

International Labour Organisation	Ms. J. Ancel-Lenners Mr. M.R. Kern
United Nations Educational, Scientific and Cultural Organization	Mr. A. Guillot-Pingue
World Health Organization	Mr. S.S. Fluss

IV. National Liberation Movements

Pan Africanist Congress of Azania	Mr. M.S.E. Pheko

V. Non-governmental organizations in consultative status

Category I

International Alliance of Women	Ms. I. Rimondini
International Council of Women	Ms. R. Gaillard

Category II

All India Women's Conference	Ms. Mala Pal
Anti-Slavery Society	Mr. M. Harris Ms. Lesley Roberts Mr. Peter Lowes Mr. Denis von der Weid Ms. Berhane Ras Work Ms. Margareta Linnander Mr. M. Bonnet
Caritas Internationalis	Ms. M. Tom
Friends World Committee for Consultation	Mr. M. Macpherson
Human Rights Internet	Mr. A-C. Zoller
International Abolitionist Federation	Ms. A. Basak Ms. L. Droz Ms. R. Falquet Mr. J-P. Barruel de Lagenest
International Association of Democratic Lawyers	Ms. R. Bridel
International Association of Penal Law	Ms. E. Underhill
International Catholic Child Bureau	Ms. F. Bruce
International Council of Jewish Women	Ms. L. Seigel
International Federation of Women in Legal Careers	Mme. J. Valentin
International Federation of Women Lawyers	Ms. H. Pfander

International Federation - Terre des Hommes	Ms. E. Lacourt Ms. E. Kadjar-Hamouda Ms. L. Borsatti Ms. R. Nelles
International Human Rights Internship Programme	Ms. L. Anderson
International League for Human Rights	Mr. D. Weissbrodt
International Save the Children Alliance	Mr. S. Harder
Pax Christi	Mr. J. Gathia
World Federation of Methodist Women	Ms. R. Bloem

Roster

Asian Cultural Forum on Development	Mr. K. Satyarthi
Defence for Children International	Mr. T. Davies Mr. N. Cantwell Mr. R. Dominicé Ms. M-F. Lucker-Babel Mr. D. O'Donnell Ms. M. Vignard Ms. L. Smith Ms. A. Holmes Mr. I.H. Batalvi Mr. F. Simon
International Inner Wheel	Ms. A. De Senarclens

VI. Other organizations and groups

Dutch Advisory Commission on Human Rights	Ms. Y.S. Klerk Ms. B.A.W. Thomas-Korvius

ANNEX III

Documentation

1. The Working Group had before it the following documents:

E/CN.4/Sub.2/AC.2/1990/1	Provisional agenda
E/CN.4/Sub.2/AC.2/1990/Add.1	Annotations to the provisional agenda
E/CN.4/Sub.2/AC.2/1990/2	Status of the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery
E/CN.4/Sub.2/AC.2/1990/3	Status of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others
E/CN.4/Sub.2/AC.2/1990/4 and Add.1 and 2	Information received from States concerning the Slavery Convention, the Supplementary Convention on the Abolition of Slavery, Slave Trade, and Institutions and Practices Similar to Slavery, and the Convention for Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others
E/CN.4/Sub.2/AC.2/1990/5 and Add.1, 2, 3 and 4	Information submitted by Governments, United Nations organs, specialized agencies and intergovernmental organizations
E/CN.4/Sub.2/AC.2/1990/6 and Add.1	Information received from non-governmental organizations
E/CN.4/Sub.2/AC.2/1990/7	Information submitted by the International Criminal Police Organization (INTERPOL)

2. As reference documents, the Working Group referred to the following documents:

E/CN.4/Sub.2/479/Rev.1	Final report submitted by Abdelwahab Bouhdiba, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities on the exploitation of child labour

ST/HR/SER.A/18	Report of the seminar on ways and means of achieving the elimination of the exploitation of child labour in all parts of the world
E/CN.4/Sub.2/1989/37	Study on ways and means for establishing an effective mechanism for the implementation of the slavery conventions, prepared by the Secretary-General pursuant to Commission on Human Rights resolution 1989/35
E/CN.4/Sub.2/1989/39	Report of the Working Group on Contemporary Forms of Slavery on its fourteenth session
E/1990/33	Report of the Secretary-General on the implementation of Economic and Social Council resolution 1983/30 on the suppression of the traffic in persons and of the exploitation of the prostitution of others
E/CN.4/Sub.2/1990/43 and Add.1	Report of the Secretary-General prepared pursuant to Sub-Commission on Prevention of Discrimination and Protection of Minorities resolution 1989/41

3. Other documents were also circulated in the Working Group, including many of the statements submitted by participants.

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Sub-Commission on Prevention
of Discrimination and
Protection of Minorities
Forty-second session
Agenda item 17 (a)

PROMOTION, PROTECTION AND RESTORATION OF HUMAN RIGHTS AT NATIONAL, REGIONAL AND INTERNATIONAL LEVELS

PREVENTION OF DISCRIMINATION AND PROTECTION OF CHILDREN: HUMAN RIGHTS AND YOUTH

Updated report on human rights and youth submitted by Mr. Dumitru Mazilu, Special Rapporteur

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THE NEED FOR A NEW APPROACH

1. Over the last two years we have been the witnesses of extremely important developments in different parts of the world and, in particular, in Eastern Europe.

2. By a true revolution the peoples of this area have decided to eliminate a totalitarian system, to restore democracy and to build a society based on respect of freedom and dignity of every human being.

3. Some important changes took place in other regions of the world. In Africa, Asia and Latin America, major developments took place in the fight for human rights and fundamental freedoms.

4. At the same time numerous and serious problems persisted in some countries, where human rights and fundamental freedoms continued to be violated.

5. Any analysis of human rights and youth has to pay due attention to these important developments.

6. In order to put before the Sub-Commission and, in general, before the United Nations a thorough study on human rights and youth - after my five years of imprisonment - I intend to approach the subject from a new angle, taking into consideration the new developments and the actual requirements for the most appropriate status of young people all over the world.

I. A GENERAL VIEW

7. After World War II, the peoples of the United Nations expressed their firm determination to maintain international peace and security and to achieve international co-operation in promoting and encouraging respect for human rights and fundamental freedoms for all, without distinction as to race, sex, language and religion.

8. There was a general agreement that the United Nations would be a centre for harmonizing the action of nations in the attainment of these common ends. After 45 years, the United Nations has succeeded in some of its activities directed to the maintenance of international peace and security and to the achievement of international co-operation in promoting and encouraging respect for human rights and fundamental freedoms.

9. An albeit cursory examination of the state of human rights in the world today enables us to state the following:

(a) Democracy and liberty were still being trampled underfoot even after the end of World War II; dictatorships were set up in some countries, outside of all popular control. As a result, criticism became a political crime, and those who had the courage to have their say fell victim to the tyrants' cruel repression. It is a sobering thought that more than three million people perished in this way;

(b) The inefficient economic structures that were imposed led to the stifling of freedom and initiative thus blocking economic and social progress and increasing shortfalls, poverty and destitution. Some rulers, vain enough to consider themselves experts in the most complex and sensitive problems of economic activity, imposed wrong economic structures and orientations, causing veritable economic disasters in some countries and at the same time depriving millions of people of the benefits of a decent existence;

(c) The unprecedented concentration of power without any limit in time in the hands of certain families as a result of serious degradation of the political system have dealt human dignity a heavy blow, in many cases negating it completely. Absolute power in the hands of the few, a total lack of public control, and - in the name of the principle of non-interference in domestic affairs - the rejection of any outside criticism have generated phenomena that are the shame of the century; in an astonishing inversion of values, we saw and continued to see some rules being deified, leaders venerated, the spread of base flattery, lies and hypocrisy;

(d) The promotion of the inept to the very top of the social pyramid in some countries has harmed their economy and culture. A reign of ignorance and stupidity has led to the negation of human values and to the discouragement of talent and creativity. Those who were unable to tolerate the onslaught of mediocrity have left and are continuing to leave their countries, seeking other, more clement latitudes for their self-fulfilment. Among the younger generation especially, the advancement granted to nonentities has caused disorientation and a feeling of despair; often ending in real human tragedies;

(e) Historically unverified and unconfirmed dogmas and the violation of the freedoms of thought and conscience have led to spiritual stagnation. Millions of believers in various countries have suffered humiliation and

prosecution for their religious convictions; in bitterness, entire communities have responded by drawing closer together in their faith and in their spiritual communion. Proof of this is that precisely in those countries where anti-religious measures were multiplied, the number of believers has grown not only among older people but also among the young. Millions of young people nowadays take part in great religious processions, seeking answers to the many complex problems for which society has failed to give them a credible explanation;

(f) Criteria of race, sex, language and religion are still the basis for a variety of inequitable and unfair measures. Similarly, ethnic considerations still constitute the motivation for deliberate acts of repression. The discrimination and measures of isolation directed against whole communities have caused indignation, rebellion and social conflicts;

(g) The disillusionment felt in certain sectors of society, in particular by the younger generation, has led to a growing use of narcotics. Drug consumption continues to take its toll of thousands of human lives. In the absence of any real happiness, young people take refuge in an unreal world, thus almost irreversibly destroying their own physical and moral health;

(h) For many years dictators kept their peoples cordoned off within their national borders in order to prevent human contacts across frontiers and continents. This was a great disservice to civilization. The age-old spiritual values of humanity were officially discredited, while those who hold them were subjected and continue to be so in some countries, to unimaginable acts of repression. Instead of allowing the free circulation of ideas, values and traditions, there was an attempt, which continues in some countries, to impose dogmatic patterns of thought in a situation of national isolation. This leads to backwardness and even regression, depriving millions of people of the joys of progress and civilization;

(i) Young people find the loud bombardment of lies and hypocrisy in some countries shocking. While invoking liberty and democracy, dictators oppress hundreds of thousands of people; compulsory labour has been instituted through a declaration of the freedom of work; at a time when poverty and destitution are assuming growing proportions, statistics have been manipulated and resounding claims to prosperity continue to be sounded. The most astounding and grave inequities are perpetrated in the name of justice.

II. A SPECIFIC VIEW

10. Undoubtedly, no assessment of the state of human rights in the world would be complete if it did not take account of the younger generation.

11. The young are entitled to enjoy the rights and freedoms that are the prerogative of all humanity. Young people have the right to have full information about the past and about their own history and traditions, they have a right to a hopeful present and to a brighter and better future.

12. In our analysis we consider that the following developments must be examined:

(a) Political leaders, we note, take great pains to include in their major declarations of intent a reference "to their special concern for the younger generation". Even tyrants and dictators try to convince us that their grandious plans for self-aggrandizement are intended to achieve "happiness for the coming generations";

(b) In some countries, arbitrary decisions running counter to the wishes of the people have resulted in the infringement of one of the most important rights of youth, the right to a knowledge of history, to a sense of continuity; the right to their past. Imposing their will by coercive measures, ignorant leaders have ordered historic monuments, places of worship, religious monuments and numerous structures built in the traditional local style to be demolished; to replace them, they have tried to foist a vulgar style of architecture, devoid of any quality, even that of being functional;

(c) A wealth of material and spiritual values was doomed to vanish, leading to the impoverishment of the culture and civilization of the peoples concerned and depriving the youth of their elementary right to be acquainted with the material vestiges of their past and with their spiritual heritage;

(d) Millions of young people in some countries continue to be deprived of the right to the enjoyment of their youth. Subjected to compulsory labour, to mistaken educational trends, to the absence of amusements, of dancing and music, young people tend to become spiritless robots, their only prospects being that of swelling the ranks of salaried slaves;

(e) In various countries, persistent joblessness has swelled the ranks of the disillusioned and the disoriented. Dissolute pastimes, the haphazard structuring and content of leisure activities have increased vice and immorality among the young, who frequently seek refuge in narcotic drugs;

(f) Under both sets of circumstances many young people today have been robbed of the joys of youth, a time of life for fulfilment and achievement of which no adolescent should be deprived;

(g) Gradually many young people have become indifferent and listless. Feeling that they are being manipulated to ends that do not reflect their aspirations, many have become weary. They realize that what they are being told to do is not useful now, nor is it useful for the future. Without the joy of creativity, the young have lost their characteristic enthusiasm; a freely-chosen occupation, the source of the greatest social achievements, has been replaced by compulsory work;

(h) The cruellest blow to thousands upon thousands of young people has been that of being robbed of their right to a bright future. Economic structures that impede progress, institutional systems that spawn poverty and discourage efforts to improve one's lot, the savage and irrational exploitation of natural resources, severe environmental pollution, especially of air and water - all these deprive young people of prospects for a better future. Many do not see the appropriate way to improve the situation. The chaos caused by incompetence in various branches of the economy in some countries and the refusal to carry out reforms render necessary changes in the basic structure impossible. Robbed of their right to a better future, young people feel profoundly disillusioned, confused, discouraged and demotivated; they are amputated of that which should be their most precious possession; a joyful expectation of the future.

(i) The feeling of dissatisfaction and revolt among the young is all the greater as certain rulers impose their erroneous decisions, their faulty solutions and their inefficient economic organization precisely in the name of a better future for the younger generation;

(j) The ability of young people to contribute has been underestimated and neglected in the formulation of development programmes and in the identification and implementation of ways to achieve progress; the younger generation has been left out of the mainstream thus depriving society at large of an inestimable resource of creative thought and intelligence.

III. YOUNG PEOPLE: THE MAJOR FACTOR IN THE STRUGGLE TO CHANGE THE WORLD AND TO RESTORE DEMOCRACY

13. Many young people have been astonished and bewildered by the fact that entire nations have been deprived for so long of their rights and freedoms. How was it, how is it still possible, they ask, that dogma which deserved only derision is enshrined in bound volumes, exhibited in places of honour on the shelves of large official libraries, and that thousands of people have been obliged to learn it by heart?

14. How was it, and how is it still possible that thousands upon thousands of people sing the praises of mistaken and deeply detrimental ideas and conclusions? What can justify calling those who try to speak the truth criminals or mentally disturbed and isolating them behind bars from the rest of the world?

15. Young people have been astonished by the fact that millions of people think one thing but say something altogether different. They have asked what has produced this duplicity that throws discredit upon the human race?

16. In particular, young people have had the courage to ask how it has been possible to equate free thought and speech - universally recognized to be the finest achievements of mankind - with a criminal offence, when all the international instruments in this domain solemnly proclaim everybody's right to hold opinions and to freely express them?

17. Young people have had the courage to point out in clear terms that the criminals are not those who think and speak as they wish, but those who take it upon themselves to oppress and persecute them for exercising their basic human rights!

18. Through a real revolution, young people, together with other segments of society, have demonstrated that in contrast to other living creatures man is the only one endowed with the power of reason, able to comprehend the objective world and to express judgements. Since conscious reflection is what sets him apart from the rest of the animal kingdom, to deny a human being the right to think and to express his thoughts means to negate his rightful historic role and to put him on a par with animals. Those who did and do this have committed and commit the iniquity of iniquities!

19. Young people have been astonished to see that whole nations were reduced to a state of slavery, their only preoccupation being their physical survival. They have demonstrated that these unbelievable developments were and, alas, are still possible under certain deeply undemocratic régimes which cancelled at one stroke all the attainments of human civilization and distorted arbitrarily all human relationships, placing them under the dominion of suspicion and repression.

20. Today, after seven decades of ordeals, the issue of recognizing human rights has been raised, to enable people to freely express their opinions and thus to put the Stalinist nightmare behind them; this has been considered to be a great step forward.

21. Fortunately the idea took root in the majority of countries with dictatorial régimes, although it was rudely rejected in a few others!

22. However, people - primarily young people - manifest their firm determination to put an end to the nightmare produced by the rejection and the brutal violation of freedom and democratic rights. They demand respect for the rights of the human species conferred upon it by its very development: to be free and to live in freedom!

23. They will never accept the violence of tyrants and dictators, their attempts to keep people enslaved and to relegate them to the role of animals.

24. The revolution to which many of us have been witnesses has been a revolution of young people who have expressed their firm determination to change the world, to restore democracy and to live in freedom as every human being has to live!

IV. DEEP CONCERN ABOUT THE INCREASING NUMBER OF VIOLATIONS OF HUMAN RIGHTS OF YOUTH

A. Life, liberty and security of youth

25. The life, liberty and security of young people are in danger in many parts of the world. Child abuse, the sale of children for adoption, the utilization of youth on behalf of adult offenders, the utilization of youth for pornographic films, all seem to be progressively increasing.

1. Summary or arbitrary executions

26. Of particular concern is the increasing number of summary executions as well as the continued incidence of arbitrary executions of young people in different parts of the world. A factor common to all the victims is that they were in opposition to, or were perceived or imagined to have been in opposition to, those who wielded political or economic power in the State or Government, or were perceived to be in opposition to certain aspects of their political, economic, social and cultural policies. Many young people have been arbitrarily executed during events such as demonstrations, strikes or other forms of protest. Summary or arbitrary executions of young people are most prevalent in areas where internal disturbances exist. Such executions have been carried out after a violent change of Government resulting from wars, internal armed conflicts, revolutions or coups d'état, or after attempts to change the Government by constitutional means had failed.

2. Enforced or involuntary disappearances

27. This reprehensible violation of the human rights of youth is a result of excesses on the part of law enforcement or security authorities or similar organizations and the resultant difficulty or impossibility of obtaining reliable information from competent authorities. Summary or arbitrary executions and enforced or involuntary disappearances, which involve plain and fundamental breaches of the most elementary human rights, have been generally regarded as being politically motivated. Disappearances have always been convenient for a powerful Government to silence its opponents by removing them. Disappearances directly affect the right of parents to know the fate of their children, the right of relatives to be informed of the whereabouts and fate of missing family members. For those who wield political or economic power in the State or Government, the repercussions are minimized if political opponents can be erased, without statements, trial or martyrdom.

B. Why these methods are used so often against young people by some Governments

28. The analysis of this situation has shown that young people are very courageous and much more decided to fight for liberty. For young people, liberty means everything; it is their life and their future.

29. Any dictatorship understands this fact very well. That is why it is ready to take every repressive measure to neutralize young people fighting for liberty. For any tyrant or dictator, summary or arbitrary executions and enforced or involuntary disappearances are most convenient. A tragic solution!

30. Since summary or arbitrary executions and enforced or involuntary disappearances are the most reprehensible and flagrant violations of the right to life of young people, we consider it necessary to collect further information focusing on these and other matters concerning youth. The question of summary or arbitrary executions and enforced or involuntary disappearances of young people is a matter of high priority, bearing in mind that deprivation of life is irrevocable.

31. The life of young people is in danger in those countries where their right to adequate food and to a standard of living adequate for their health and well-being is not observed. Many young people, particularly in developing countries, suffer from hunger and malnutrition. We have noted with deep concern that in some countries political leaders have used food and medical care as an instrument of political pressure.

32. The serious tensions on the international scene and the unprecedented and immensely costly acceleration of the arms race limit the opportunities to resolve certain acute economic and social problems facing many young people today.

33. We have to stress again that, to ensure the enjoyment by youth of the right to life, the international community must make every effort to strengthen peace, remove the growing threat of war, particularly nuclear war, to halt the arms race, to achieve general and complete disarmament under effective international control, and to prevent violations of the principles of the Charter of the United Nations regarding the sovereignty and territorial integrity of States and self-determination of peoples. In the recent past, the number of young victims of wars or other military conflicts, on conservative estimates, would be at least 3 million.

34. The life of many young people is in danger in different countries because of the continuing increase in the use of illicit drugs. Young people are frequently engaged or used in different aspects of the illicit drug business, including the production, possession, trafficking, demand and consumption of illicit drugs. The immediate consequences are massive social and human problems and harmful effects on the physical and moral health of the young population.

35. In view of the extremely grave consequences for the physical and moral health of young people, and for every human being, many national and international organizations consider it necessary to recognize the illicit drug business, including the production, possession, trafficking, demand, consumption and financing of illicit drugs, as a crime against humanity.

36. The administration of justice in the case of young offenders is very important for the full enjoyment by youth of the right to life. In the view of some members of the Board of the International Society of Social Defence (ISSD), a penal sanction affecting juveniles is meaningless if it does not aim at the social reintegration, education, professional training and rehabilitation of the offender, the sanction as such being secondary. Recourse to detention for an indefinite period, sometimes adopted even for unusual behaviour not involving any breach of the penal law, is today considered contrary to human rights.

37. Juvenile justice may well play a very important role in the protection of human rights if it recognizes that the minor has his own rights and if it succeeds in combining the need for protection and the need for guarantees. Present trends aim to restrict the detention of minors to the most severe cases and to consider detention as the ultima ratio, developing instead alternative measures which, while reacting to the offence, do not deprive the person of his liberty. The penal law and the penal system for young people aim at overcoming any form of paternalistic intervention, keeping however the peculiarity of a system which, with legal guarantees, pursues above all an educational and social action and places the interests of juveniles in the forefront.

38. Many Governments have adopted measures which provide for the protection and care of young persons who are victims of abuse, abandonment and exploitation. In some countries, rules, regulations and procedures have been adopted which provide stiff punishment for cruelty to young persons. For instance, if a person who has the custody, charge or care of a young person wilfully assaults, ill-treats, neglects, abandons or exposes such young person or causes or procures or permits such young person to be assaulted, ill-treated, neglected, abandoned or exposed in a manner likely to cause such young person unnecessary suffering or injury to his health, that person shall be deemed guilty of an offence punishable by imprisonment of up to several years or to a fine, or to both imprisonment and fine.

39. In many countries, school welfare services have been organized which are responsible for the after-care of juvenile offenders detained in, or released on parole licence from, approved schools or approved homes. It is necessary to start after-care from the day of the offender's detention in the institution until his eventual reintegration into the community.

C. Serious difficulties in ensuring the exercise of youth's fundamental right to education

40. In particular, in less developed countries, schooling has often been insufficient in content and quality, with overcrowded classrooms, teachers insufficiently trained and overworked, insufficient equipment and without the help of essential support services.

41. Investment and assistance are not sufficient to create efficient school systems and support services in order to endow schools with qualified personnel. It is estimated that at the present time some 878 million people can neither read nor write, as against 742 million in 1970. If current trends continue, the situation will be even more difficult in 1995. In some countries, particularly the less developed, one young person in four is illiterate. There is no doubt that the extension of effective assistance for the eradication of illiteracy and for the promotion of education of all kinds to the developing countries, both bilaterally and through the United Nations system of organizations, has become the most important and urgent activity. Many Governments of developing countries have assigned prime importance in their programmes of social development to eradicating illiteracy.

42. In spite of the fact that many actions and measures have been taken against discrimination in education, it persists in some countries in the admission of boys and girls to educational institutions, in the treatment by the public authorities as between nationals, in the matter of school fees and

the granting of scholarships and other forms of assistance to young people and the necessary permits and facilities for the pursuit of studies in foreign countries.

43. There is a very strong trend to eliminate any practices which involve discrimination in education, to ensure that there is no discrimination in the admission of young people to educational institutions, that there are no differences in treatment as between nationals, except on the basis of merit or need, in the matter of school fees and the granting of assistance. Many Governments have adopted effective measures to eliminate any restrictions or preferences based solely on the ground that young people belong to a particular group, and to give foreign nationals resident within their territory the same access to education as that given to their own nationals.

44. In a number of market economy countries, schools are beginning to defer the time at which a choice must be made between predominantly academic and predominantly vocational pursuits, thus maintaining flexibility and promoting the general education that is necessary for all forms of work.

45. In some planned economy countries, in response to a need to adapt to technological changes, reforms have been introduced to raise the quality of education and vocational guidance at school. In these countries, there is a concern to combine academic instruction with preparation for practical work, so that even at the primary school level students will be taught basic vocational skills.

D. Grave and numerous problems in ensuring the exercise of youth's fundamental right to work

46. In some countries young people are required to perform forced or compulsory labour, whereas others have no employment. In other countries there is a very large proportion of underemployment or a very low or inadequate income or even exploitation of youth labour.

47. The existing systems of forced or compulsory labour in some developed, and in particular in various developing countries seriously threatens fundamental human rights and jeopardizes the freedom and status of young workers in contravention of the obligations and provisions of the Charter of the United Nations, the International Covenant on Civil and Political Rights and other international instruments. In many cases, forced or compulsory labour is used as a means of political coercion or punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. In some countries, forced or compulsory labour is used as a method of mobilizing and using labour for economic purposes or as a means of labour discipline, as punishment for having participated in strikes and as a means of racial, social, national or religious discrimination. Unfortunately, in large areas of the world young people are exploited under horrible conditions. In different developing countries, extreme poverty forces many young people into the labour market at a very early age, depriving them not only of the joys of childhood but also of any possibility of realizing their full potential as adults.

48. There are many types of such youth labour, including family farming, family craftwork, craft piecework, small tasks carried out by young people on their own account, small tasks carried out for third parties, seasonal work in

agriculture, apprenticeships, sweatshops, maid-of-all-work labour in a situation of virtual bondage, youth prostitution and bond service. Many young people are unpaid family workers in household enterprises. A vast majority of youth work long hours and receive a low income, particularly in rural economies, where many young people are engaged in subsistence activities and unpaid family labour, such as repairing and maintaining dwellings and farm buildings, growing vegetables and fruit not for their own consumption, carrying water over long distances, etc. Most of these activities take up a considerable amount of time and contribute to the output and welfare of the household enterprises. Even when a boundary is drawn between the two, for young workers the practical problems of qualification remain, since these activities tend to escape the conventional measurement tools. There are many contemporary manifestations of slavery-like practices, including apartheid, colonialism, traffic in and exploitation of youth labour, debt bondage, illicit traffic in young migrant workers and exploitation of hard drug addicts. Conservative estimates would put the number of known victims of forced or compulsory labour between 1970 and 1990 at at least 14 million young people. The extent and occurrence of such labour during this period may have been even more widespread, since not all cases were reported or known.

49. Of concern are also incidents involving the illegal transportation of young workers from different developing countries to some developed ones in conditions akin to slavery and forced labour, which had been organized or undertaken by criminal elements. This raises the problem of the exploitation of youth labour through illicit and clandestine trafficking. The suggestions and recommendations made on this important matter by the United Nations Special Rapporteur, Mrs. Halima Warzazi, should be taken into account.

50. In some developed countries there is a discriminatory treatment of young migrant workers, despite the legislative and other efforts exerted to prevent and punish mistreatment. In many cases, young migrant workers have no regular status and are denied a treatment equal to that enjoyed by the nationals of the country with regard to the enjoyment of fundamental human rights, with particular reference to equality of opportunity and treatment in respect of employment and occupation, social security, trade union and cultural rights, and individual and collective freedoms. The illicit traffic in young alien workers continues to be organized in various places. Some host countries do not have enough efficient co-operation with the countries of origin to provide young migrant workers and their families with the necessary facilities in the fields of education and information for safeguarding their cultural identity. Many young migrant workers are denied the conditions needed to receive education in their mother tongue and on different aspects of their cultural achievements with a view to preserving their national identity. There is also a lack of sufficient and efficient co-operation between the State of origin and the State of employment to help to create new job opportunities for young migrant workers returning to the State of origin.

51. Many serious and very difficult problems are related to youth unemployment and underemployment. Since the end of the 1970s, youth unemployment in the industrialized market economies has become a much greater problem for all categories and not just for the high-risk groups at the margin of society, such as educationally disadvantaged migrants, racial minorities, disabled youth and young women. Unemployment has increased and the periods of unemployment have become much longer. The beginnings of the current youth unemployment problems in the industrialized market economies can be traced to

the general slow-down of demand and economic activity in the mid-1970s, aggravated by the 1979 oil shock, followed by a global recession and by demographic factors combined with the effect of rapid structural change caused by technology and other factors and the displacement of certain industries.

52. In developing and particularly in less developed countries, youth employment problems are part and parcel of the overall problem of poverty, unemployment and underemployment.

53. Of particular concern is the pattern developing in those countries where the employment prospects of young people, and particularly disadvantaged youth moving into their early twenties, are not improving, thus raising the spectre of a generation of young people, born in the late 1950s to mid-1960s, facing a prolonged period of adult unemployment. In more developed countries, economic recovery began in 1983, but youth employment has responded very slowly to this important event. The improvement in OECD countries in 1984 was accounted for almost entirely by a 2.7 per cent increase in youth employment in the United States. In the industrialized market and planned economies, a common phenomenon is a clearly discernible decline in population growth since the 1950s. There is a connection between this phenomenon and the future size of youth employment. It would appear that in the 1990s the teenage labour force will be smaller in most countries than in the 1960s and 1970s. Young women entering the labour force will partially offset this decline.

54. In the centrally planned economies, in the context of shortages of manpower in some countries and the need to make efficient use of available manpower, young people are faced with certain problems of job placement. In some of these countries, effective measures for restructuring the economy have been taken. In these countries, there is concern to settle such problems as job placement, as well as the selection of an occupation that takes into account individuals' interests as well as the requirements of society.

55. Underemployment is another phenomenon facing young people in many countries. In various places, young people involuntarily work a shorter period of time than is normally associated with a particular activity and are available for or seeking additional work. These are visibly underemployed young people. In some countries, a very large proportion of underemployment is "invisible", which reflects a misallocation of labour resources or a fundamental imbalance between labour and other factors of production. Young people face such difficult problems as very low or inadequate incomes, under-utilization of their skills or capacities and low productivity.

56. Young people, particularly in their formative years, require clearly determined and defined hours and conditions, taking into account the need to limit working time in order to allow sufficient time for education, rest and leisure activities. The seventy-second International Labour Conference (1986) stressed that part-time work represents one of the opportunities available to youth employment in many countries. Such work can provide possibilities to pursue further education and training.

57. One of the basic aspirations of the vast majority of young people is to improve their access to full-time employment opportunities with fair conditions of work, career prospects and job satisfaction. It has been emphasized that meeting these important aspirations in many countries is dependent on higher and sustained rates of global economic growth so as to

achieve a significant expansion in labour demand generally, taking into account that both the quantity and quality of employment opportunities for every young boy and girl, and for everyone, are closely associated with the functioning of the overall economy in every country and in general in the world. There is no doubt that co-ordinated economic and social policies, both at the national and at the international level, which facilitate the achievement of more stable and fair commodity and financial markets and an expansion of international trade, including freer access to international markets and based on the principles of equality and mutual advantage, are essential macro-economic preconditions for the solution of existing youth unemployment problems. The social and economic cost of the problems confronting young people in today's world impose heavy burdens on both individuals and society as a whole. However, the cost of not overcoming those problems will be much higher in the long run, should effective solutions not be found.

58. The most important prerequisites for the meaningful realization of the rights of youth are independence, territorial integrity and national sovereignty, without which no effort towards economic or social development can lead to a more just society. To ensure full enjoyment by youth of the right to life, to education and to work in different countries, particularly in the less developed ones, would require necessarily peaceful but radical social changes, which would allow all the human and material resources of a nation full and dynamic participation in the process of development. Young people are an important component of every society. To stimulate their effective participation in the process of development, urgent measures of radical reforms are required, which must be based on social justice, national consolidation and solidarity, the equitable distribution of income, wealth and services, the bringing of rural and urban income levels closer together, an increased respect for work, the removal of any kind of discrimination in fact as well as in law and the decentralization of decision-making and the system of government within the framework of an effective democratic structure. There is no doubt that rapid modernization requires that institutions make youth participation more effective.

59. In many countries, particularly in the less developed ones, a radical change is urgent in the educational system, implying not only an increase in the quantity of schooling but also an improvement in its content and in its very spirit. The creation, expansion and consolidation of links between labour and ownership in industry and the training of skilled young workers, are important components of this change. To ensure that human resources are mobilized and that the most needy elements benefit from technical co-operation projects, it is necessary to orient projects to the special requirements of university students and out-of-school youth, in order to integrate young people both as productive agents and as beneficiaries of industrial development, as well as participants in the decision-making process.

V. THE CAUSES OF THE CONTINUING VIOLATIONS OF HUMAN RIGHTS OF YOUTH

60. The contempt for the rights of youth, as stipulated in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the other international instruments, leads to the continuing violations of these rights.

61. Youth is the sole component of society which is deprived of any direct representation of its own interests. A social policy for youth is necessarily a "filtered" policy, an asymmetric one, in which there is no dialectical confrontation between the concerned parties.

62. At least 190 million young people have no possibility of enjoying their right to freedom of opinion and expression; at least 150 million young people are facing serious difficulties in the exercise of their right to freedom of thought, conscience and religion and at least 300 million young people have no possibility of enjoying their right to freedom of association.

63. At least 180 million young people are confronted with extraordinary obstacles and difficulties in the exercise of their right to leave and to return to their country.

64. In some countries, young people continue to be confronted with many obstacles in the administration of justice. Many tribunals are not independent and impartial. In other countries, at least 140 million young people are subject to arbitrary interference with their privacy, family, home, correspondence and telephone.

65. Lacking the necessary understanding of the mechanisms of development, dictators and tyrants have imposed by force theories and concepts which run counter to the interests of the people. No wonder that in an attempt to justify their misdeeds, these dictators have forged the thesis of "the need and advisability of replacing one dictatorship by another", theirs turning out to be far more cruel and repressive than preceding ones.

66. Even after taking power and physically liquidating the opposition, dictators have continued to resort to repression in order to keep themselves in power at all costs; they turned it against anyone who might dare to think on his own or hold personal opinions, be they even members of the new ruling circle. Thus, time and time again, dictators have made heads roll, killing hundreds of thousands of people in repeated waves of blood-letting, all for the sake of a theory of which their understanding might have been only approximate but which they made into an immutable dogma.

67. It is in the name of such immutable dogmas that millions of people are robbed of their earnings, acquired through hard work, and, by the same token, of their age-old belief: that honesty and unstinting labour, the fruit of one's skill and intelligence, is the only road to a better life.

68. Old forms of labour exploitation have been replaced by new ones, dominated by the element of oppression; but the slogans and concepts launching them are picked up and repeated with great complacency by loafers and shirkers. People have been robbed of the joy of working to improve their standard of living: a better life can no longer be attained through diligence.

69. A person's qualities have ceased to be the criterion for advancement; personal connections and the ties of consanguinity have become the warp and woof of the social fabric. A well-placed person's intervention in one's favour, or just being related to such a person, immediately opens all doors and gives one undreamed-of prestige.

70. The peasants, who were always known to have great attachment for their land, have lost all interest in planting and harvesting crops, having had every right taken away from them ... except that of being slaves.

71. Whole areas, famed for their fertility, have been transformed from oases of prosperity into places of poverty and want; so much so, that grain farmers are without their "daily bread", having to go into the towns to buy it, cattle growers have no meat or milk, while farm animals starve to death, together with their keepers.

72. The dogma of forced industrialization has wrenched millions of peasants from their traditional life; drawn to the cities by false promises, they have become slaves in grossly underpaid jobs. This type of industrialization, carried out through voluntarist methods by a number of dictators with discretionary powers has brought untold grief to millions of people.

73. The economy was restructured, mostly in a haphazard way, and whole sectors have proved unprofitable due to bad planning. Millions of people are thus forced to work in a vacuum of purpose and are robbed of the joy of tangible results.

74. The natural resources of these countries have been mercilessly exploited and wasted to no purpose. The crystal waters of their rivers have been unconscionably polluted and the quality of the air over large areas makes breathing difficult. Forests have been over-exploited in an irrational and irresponsible manner.

75. "Cosmopolitanism" was turned into an accusation and levelled at intellectuals who sought to introduce into their own countries the useful findings discovered elsewhere. An intellectual family background is looked upon as a blemish or, at any rate, as a major reason for preventing the advancement of people of real value.

76. The absurd cult of the Leader (even when he is someone who can hardly read) has produced a climate which renders almost impossible the self-affirmation and rise of the best people in science, culture, literature and the arts. In fact, any attempt to make a name for oneself is considered an effrontery; those who had the temerity to stand out above the crowd were silenced with methods of unheard-of brutality.

77. The rules governing a normal society have been reversed; instead of the rulers being subordinated to the will of the people and acting in its behalf, whole nations are forced to bow to the decisions and to do the bidding of the tyrants, with wholly absurd results: even in the most practical and technical matters, the attempt is made to bend economic mechanisms to the dictator's decisions - though he may totally lack an understanding of the issue.

78. There continue to exist countries where the impoverishment of the population and the threat to the life of the young are due exclusively to the irresponsible attitude of certain rulers, whose voluntarist methods have led the economy to the brink of disaster. The acute shortage of basic foodstuffs has placed the genetically determined development of those to be born at risk, thus threatening the human race with degeneration.

79. The irresponsible attitude of some rulers who are intent on exporting at any cost their nation's most valuable products, including the consumer goods that are badly needed by the population, who indulge in making donations and gifts with a view to their own personal aggrandizement, has aggravated the state of poverty of the peoples concerned, creating untold hardships in their daily life and placing the physical and mental development of the young at risk.

80. There are countries in which the difficulties of providing the basic foodstuffs needed by the younger generation are of an objective nature: the soil is poor, large areas lie in arid zones, population density is very high. These countries must be given the appropriate types of assistance by the international community so that people can be assured of survival and the young can develop normally.

81. Those Governments or rulers who, having wrought havoc in their national economy, still send abroad the basic foodstuffs essential for the population's own needs, and especially for the normal development of the younger generation, make themselves guilty of the crime of genocide, for which they should be brought to justice and severely punished. Governments hold no greater responsibility than that of providing the means of subsistence necessary to maintain and to perpetuate life.

VI. MEASURES TO BE TAKEN IN ORDER TO ENSURE AND PROMOTE THE RIGHTS AND FREEDOMS OF THE YOUNGER GENERATION

82. Young people constitute a readily identifiable group with a distinctive perspective, a discernible culture, and an important contribution to the progress and development of society. Young people have common needs and common interests.

83. Many of their attitudes and values derive from problems which they encounter, their membership in other social groupings, groupings based on social class, gender, ethnicity, religion and culture. To this extent, their experiences and their interests diverge. Youth policy should endeavour to ensure equal opportunity and accommodate these twin perspectives.

84. In any community, in different degrees, young people encounter difficult problems, which derive not from their own inadequacies, nor in many cases from those of their education, but from changing economic situations, rapid technological change, the application of inefficient economic theories, rapid growth of armaments, etc.

85. Young people find themselves living in a society which does not make enough effort to resolve the problems with which they are confronted.

86. Many young people have difficulties in finding satisfying, productive and gainful employment. They have a sense of frustration and alienation and feel themselves undervalued and powerless.

87. Young people should demonstrate their competence and make their positive contribution to the development of society. The responsibility for assisting young people to establish independence and to make their positive contribution should be shared by the whole community.

88. One of the most important aims of development is the constant improvement of the well-being of all the world's young people on the basis of their full participation in the development process and a fair distribution of its benefits.

89. The rights and fundamental freedoms of young people can be guaranteed only if every tyranny and dictatorship, oppression and police terror are eliminated forever, political and economic systems will be restructured where necessary, and everywhere in the world real justice, respect for human beings, without distinction of any kind, will be established.

90. The economic and political pluralism and the separation of legislative, judicial and executive powers in a society, the free election of political leaders and the limitation of their mandate for a precise term are the most important components of a real democracy and the preconditions for the promotion of and respect for human rights and for the normal development of our children - the future of mankind!

91. It is imperatively necessary to take urgent measures for the protection of the life of young people everywhere in the world. It is a duty of the international community and of all national bodies to guarantee them a decent present and a bright future.

92. Governments have the duty to make every effort to protect the life of the younger generation.

93. They must make every effort to provide adequate medical care for all children and adolescents. The ban placed on imports of essential medicines and drugs, with the resultant risk to the lives of the new-born, of growing children, of young people and their parents is a measure that can only be qualified as criminal.

94. Placing on sale drugs and medicines whose date of validity has expired for the sole purpose of disposing of accumulated stocks is outrageous from both the moral and the legal point of view. The premeditated nature of this illegality is demonstrated by the fact that in some countries the administrators of the health services have taken steps to stop stamping an expiry date on the wrappings of medical products.

95. A radical change in the educational system can be realized by ensuring the relevance and effectiveness of education through regular, ongoing curriculum development. Language, customs and traditions should be everywhere an integral part of the basic learning. Youth must have an adequate input in the educational decision-making process. Education should assist young people to develop individual autonomy and to participate in shaping their own reality.

96. There are various tools and strategies to develop human resources, e.g. behavioural-science techniques, organization development, performance engineering, which are being used in ad hoc and piecemeal ways, mainly through short-term formal training courses. It is important to develop corporate environments and networks of supportive structures that help to facilitate the application of newly acquired or enhanced knowledge and capacities. Diverse and marketable skills should be developed through youth training and apprenticeships. The dramatic effects of new technologies in the workplace must be examined, so that they can operate effectively in the changing work environment. Through these actions it is important to ensure that the younger generations will be able to compete for meaningful jobs and serve as a well-trained, dependable labour force in different sectors.

97. For young people, full implementation of the right to universal education must be ensured through free and compulsory primary education, universal and gradually free-of-charge secondary education, equal access to all educational facilities and the access of the younger generation to science and culture.

98. To ensure full enjoyment by youth of the right to work, public leaders must create a sound employment policy, leading to a better transition from school to work and recognizing the importance of social and human considerations as well as economic goals. The stamping out of corruption and the creation of more social discipline throughout society are essential for faster economic and social development. It is necessary to stress that, without a sufficient core of well-qualified, dedicated and honest administrators, the realization of the right to work of young people will be delayed. The exercise of social discipline and the participation of young people in all walks of life are very important in implementing economic and social programmes aimed at speeding up the enjoyment by youth of the right to work.

99. During training and during the time when earnings are low because of the necessity to continue studies or to work part-time, subsidies should be given to young people for room and board and, if necessary, for child care and other expenses. A sound employment policy aims to support the effective integration of young people in the economic process. This policy will enable young people, within institutional infrastructures, to become and remain responsive to organizational goals, innovative and desirable changes. Young people should have better access to financial resources and other institutional facilities for the improvement of their participation in economic operations. Motivation seminars, behavioural modification workshops and workshops intended to enhance skills need to be followed up by well-designed action plans and support systems. These measures should be co-ordinated to ensure quality in initial youth training, access to paid employment, and the possibility for proficiency courses during employment.

100. In many countries there is a large proportion of youth unemployment. Young people are by definition in a period of change, as they move from the end of childhood towards entry into the world of work. There are, at the same time, other forms of change, resulting particularly from migration and assimilation into new sectors. Young migrants and refugees, the rural and urban poor, disabled youth and young women are, very often, marginalized. Most of them live and work in unregulated employment conditions. Their situation is closely linked to the problems of extending social protection to workers in this sector, which is a significant grey area in most developing countries.

101. For young people, the problems encountered in the unregulated sector tend to be those of underemployment, poverty and lack of social protection. Policy-makers are faced with the need to reduce the hardships and frequently exploitative conditions suffered by unprotected workers, particularly youth and children, while recognizing the positive contribution of this sector to employment creation.

102. Any policy in this field has to take due account of the stage and level of economic development and the mutual relationships between employment objectives and other economic and social objectives, and has to be pursued by methods that are appropriate to national condition and practices.

103. Given the differences in economic growth between more developed and less developed countries, it is necessary to restructure economic, monetary and social policies at the national and international levels in order to reduce disparities between developed and developing countries, and to use in a better way resources for youth development.

104. It is necessary to consider the needs of young people as a group in society with full rights; the rights and specific needs of each member of the group must be taken into consideration by public administrators and the community. Bold efforts have to be made to convert mentalities and thus to mobilize new energies to ensure expansion of the individual and of the community.

VII. CHARTER OF THE RIGHTS AND FREEDOMS OF YOUTH

105. Every young man and woman has the right to liberty and security of his/her person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of liberty except on such grounds and in accordance with such procedures as are established by law.

106. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

107. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

108. Young people have the right to the free movement of ideas and to free contacts, without any restrictions, with other young people throughout the world.

109. Everyone has the right to leave any country, including his own, and to return to it.

110. Whoever opposes these fundamental freedoms is opposed to the generous ideas of understanding among peoples, the only lasting guarantee of peace.

111. Young people have the right to free access, without any restrictions, to the fundamental assets of universal science, art and culture, past and present. Young people have the right to take part in cultural life, to enjoy the benefits of scientific progress and the protection of the moral and material interests resulting from any scientific, literary or artistic production of which they are the authors.

112. All States shall undertake to respect the freedom indispensable for scientific research and the creative activity of youth.

113. All States recognize the benefits to be derived from the encouragement and development of free international contacts and co-operation in the scientific and cultural fields.

114. Young people have the right, and should have the opportunity, without any distinction of any kind, to have access, on general terms of equality, to public service in their country.

115. Every young man and woman shall have the right to take part in the government of his/her country, directly or through freely chosen representatives. The will of the young people shall be taken into account.

116. The authority of every Government shall be based only on the will of the people. This will shall be expressed in periodic and genuine elections by universal suffrage and secret ballot or by equivalent free voting procedures.

117. All persons, including young people, shall enjoy full equality in rights, without discrimination of any kind, such as race, colour, sex, language, religion, political and other opinion, national and social origin, property, birth or other status.

118. All persons are equal before the law and are entitled without any discrimination to the equal protection of the law.

119. Everyone shall have the right to recognition everywhere as a person before the law. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour or reputation.

120. The law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground.

121. In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language.

122. Young people have the right to have or to adopt a religion or belief of their choice, and to the freedom, either individually or in community with others and in public or private, to manifest their religion or belief in worship, observance, practice and teaching. No one shall be subjected to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

123. All States shall undertake to respect the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

124. Every child has the right to acquire a nationality. Every child shall be registered immediately after birth and shall have a name.

125. Young people have the right to a happy future. The younger generations have the right to fight for a society of equality in wealth, not in misery. The full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedom to every young man and woman.

126. When the economic policy in a country is not efficient, young people have the right and the duty to demand appropriate economic reforms.

127. Young people have the right to justice, achieved with fairness, on the basis of the truth and only the truth. In each case of juvenile delinquency, the procedure shall be such as will take account of the young person's age and the desirability of promoting his rehabilitation. No one has the right to defy the noble principles of truth and fairness in the achievement of justice.

128. For the younger generations, to lose trust in the fairness of justice means to lose trust in such sacred values as life in freedom and dignity, friendship and understanding among the peoples of the world.

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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-second session
Agenda item 17 (a)

PROMOTION, PROTECTION AND RESTORATION OF HUMAN RIGHTS AT NATIONAL, REGIONAL AND INTERNATIONAL LEVELS

PREVENTION OF DISCRIMINATION AND PROTECTION OF CHILDREN: HUMAN RIGHTS AND YOUTH

Updated report on human rights and youth submitted by
Mr. Dumitru Mazilu, Special Rapporteur

Corrigendum

Page 15, paragraph 63

Delete paragraph 63 and replace by new paragraph 63.

63. At least 180 million young people are confronted with extraordinary obstacles and difficulties in the exercise of their right to leave and to return to their country. I express my deep concern at the increasing number of activities which propagate totalitarian forms of ideology and practices

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NATIONS

E

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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-second session
Item 18 of the provisional agenda

PROTECTION OF MINORITIES

Progress report submitted by Mr. Asbjørn Eide

Possible ways and means of facilitating the peaceful and constructive solution of problems involving minorities

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Introduction

1. The purpose of this preliminary report is to present to the Sub-Commission for discussion the approach to be taken by the Rapporteur, which focuses not on what minority rights should be adopted by the United Nations, but on constructive and peaceful solutions, or management, of situations involving minorities.

2. Minority situations frequently give rise to conflicts. It will often be impossible or undesirable to seek to "solve" the conflicts in the sense of making them disappear altogether. If that is sought they tend to reappear and often in more destructive forms. The task will rather be to find peaceful and constructive ways to manage the conflicts in co-operation with members of the minority and representatives of the State. Such efforts, however, require the application of some basic principles. The foundation of all such efforts must be a respect by all, including both sides in the conflict, for individual human rights and freedoms. Beyond that, the task is to apply appropriate minority rights, taking into account the great diversity of minority situations. There are certain minima which must at all times be respected, and it is suggested in this report that article 27 of the International Covenant on Civil and Political Rights constitutes a minimum. Two major problems then arise: firstly, to determine what the appropriate level of minority rights to meet the needs of the situation is and secondly, to determine the procedures by which such rights shall be secured.

3. This provisional report seeks to spell out the reasoning behind this approach, the methods that will be used and the information to be collected, including an analysis of reports presented to the relevant treaty bodies and the use of a questionnaire to seek further information.

I. MANDATE

4. The Sub-Commission, in its resolution 1989/44 of 1 September 1989, decided to entrust Mr. Asbjørn Eide with the preparation of a report on national experience regarding peaceful and constructive solutions of problems involving minorities. This resolution was endorsed by Commission on Human Rights decision 1990/105 of 6 March 1990.

5. Sub-Commission resolution 1989/44 was adopted following a discussion of the working paper prepared by Ms. Claire Palley (E/CN.4/Sub.2/1989/43), which in turn was based on resolution 1988/36. In that resolution, the Sub-Commission had expressed concern that many of the situations brought to its attention involve questions of the assimilation, integration, or autonomy of minorities, and, while at the same time "reaffirming, in accordance with the Charter, the basic importance of sovereign equality and the inviolability of the national unity and territorial integrity of States" decided to embark upon an examination of possible ways and means to facilitate the peaceful and constructive resolution of situations involving racial, national, religious and linguistic minorities.

6. In pursuing the mandate contained in resolution 1989/44, account must be taken of the achievements made by the open-ended Working Group set up by the Commission to consider the drafting of a Declaration on the Rights of Persons Belonging to National, Ethnic, Religious and Linguistic Minorities. In its latest report (E/CN.4/1990/41) the Working Group informed the Commission that it had completed a first reading of its draft declaration. The Commission on Human Rights, in resolution 1990/45 of 6 March 1990, requested the Secretary-General to entrust the Centre for Human Rights with the preparation of a technical review of the articles of the draft declaration, and to invite comments, for consideration by the Working Group, from Governments, specialized agencies, intergovernmental and non-governmental organizations, on the text of the articles of the draft declaration approved by the Working Group at its first reading. In 1990, the Working Group will therefore receive an analytical compilation of the comments received.

7. Taking into account this drafting of minority rights at the Commission, it is essential to underline that the emphasis of the present study will not be on the rights to be adopted for minorities, but on the handling of minority situations in real life, and the experiences obtained at the national level in this regard. While it is necessary to take into account the various existing and proposed rights of minorities, in order to see how these relate to national experiences, our task is to explore ways in which these issues can be constructively managed.

8. The mandate therefore requires an examination of national experiences so as to construct models for peaceful and constructive solutions of minority situations. Such models will have to be composed not only of rights granted to minorities, but also of institutions established and procedures used to deal with minority problems, in order to explore their usefulness and possibilities of improvement.

II. GUIDELINES FOR THE STUDY

9. In the working paper (E/CN.4/Sub.2/1989/43) referred to above, a set of guiding principles were set out (para. 26). The Sub-Commission, in its resolution 1989/44, stated that the present report should be carried out in accordance with those guidelines and principles. These drew attention to:

(a) The paramount importance of non-discrimination, as well as the full participation of all individuals and groups, as contained in the two international Covenants of Human Rights and in the Declaration on the Right to Development;

(b) The necessity of promoting the rights and development of minorities in a manner that is consistent with the unity and stability of States, in light of the Declaration of Principles in Friendly Relations and Co-operation among States;

(c) The dangers posed by ethnic conflict for regional as well as national security;

(d) The importance of both negative (non-discrimination) and positive (special assistance or status) measures for the effective protection of minorities;

(e) The role of the development process in removing economic and social obstacles to co-operation and mutual respect among all groups in national society;

(f) The necessity of ensuring that measures adopted to protect minorities also respect the human rights of majorities.

III. NON-DISCRIMINATION AND MINORITY RIGHTS - SOME BASIC ISSUES

10. Three sets of concerns are paramount in the quest for human rights: freedom, equality, and the preservation of human dignity. The prevention of discrimination and protection of minorities, the dual concern of our Sub-Commission, is essential at all levels. Members of minorities should not be subject to discrimination by the State or by members of the majority; nor, however, should members of minorities discriminate against others living among them or excluding others from access. At all times, it is essential to ensure respect and protection of the fundamental freedoms and human rights of all individuals, be they members of minorities or majorities.

11. While it is easy to make this statement in the abstract, it may be difficult at times to reconcile it with the quest for special rights for minorities. This is one of the reasons why caution is required and why a realistic assessment of the concrete situations is essential.

12. In the search for special rights for minorities, past experience has shown that several difficulties arise. It is not the purpose of the present study to examine all of these, but some must briefly be mentioned here, if only in passing. One issue concerns the determination of beneficiaries: Are the rights to be held by individuals, as members of minorities, or by the minorities as group? At this stage it may be enough to state that some issues can be addressed by making individuals the beneficiaries, and that other issues require a recognition of collectives as bearers of rights. In the subsequent elaboration of this study this will become more clear.

13. A second issue concerns the definition of minorities. At least three elements have been discussed in that context:

(a) The numerical (Are minorities only those who are less than 50 per cent of the total population? In the whole country, or in a region of the country? Is a certain minimum number required for there to be a minority rather than scattered individuals?).

(b) Non-dominance: Should minority rights be given only to groups which are non-dominant in society? If so, non-dominant in which respect? What if a group is dominant in some respects (e.g. economic) but non-dominant in others (political influence) due to its numerical inferiority?

(c) For there to be a minority, the members of the group must be different from other members of society in one or more respects. But different in what respects? Three kinds of differences are relevant for the present study: difference in ethnic or national identity, in culture, or in religion.

14. Sometimes there is also reference to difference in race. That notion will not be used here, since the word race, when used to classify human beings, is practically meaningless. In most cases "race" is used in a negative way, for purposes of exclusion. Whatever it is intended in a positive way, it will probably be covered by the word "ethnic".

15. The minimum requirement for minorities is found in article 27 of the Covenant on Civil and Political Rights. It must now be considered to form part of customary international law. It could well be argued that the right, in community with other members of the group, to profess and practise one's own religion, follows both from article 18 of the Universal Declaration of Human Rights and article 18 of the Covenant on Civil and Political Rights. Similarly, the right to use one's own language should follow from the general right to freedom of expression and information. Clearly, article 27 helps to clarify the right. In the same vein, it can be argued that the right of members of minorities to enjoy their own culture constitutes a clarification of the right provided for in article 27 of the Universal Declaration of Human Rights freely to participate in the cultural life of the community. It can reasonably be argued that it is for the individual to determine which of the various communities within a State provides their basic bond of identity.

16. Whether a given minority exists, does not depend on recognition by the State. Its existence depends on objective and subjective factors. To illustrate: if we want to know what a child's mother tongue is, it depends not on what the Government recognizes but what language the mother speaks. The existence of a linguistic minority is a question of fact, not of recognition.

17. Article 27 of the International Covenant on Civil and Political Rights obliges States only to respect the right of the members of minorities to use their language, enjoy their culture and profess and practise their religion. This is the bare minimum. In practice, many States have found it necessary or useful to go further. Many of the minority rights now being drafted also reflect this tendency to recognize more substantial rights.

18. One issue central to language and identity is the right to receive at least primary education in one's own language or mother tongue, even if such education is gradually supplemented by education in the national language (or one of them). When the numbers of persons using a minority language is substantial, the next level of language rights is to be entitled to address public officials (in courts, administration and elsewhere) in one's own language and to receive the response in that language.

19. A meaningful application of article 27 together with the "normal" individual human rights, is the right of members of a minority to have contacts across borders with the same or similar ethnic, language or religious groups. This follows already from the right to freedom of movement and freedom of information, notwithstanding that limitations in some cases may be justified. The burden of proof will have to be on States which impose such limitations.

20. Going beyond this level, two sets of concerns are often reflected in the arrangements sought to be established and the rights proposed for adoption. One is to find the appropriate material basis for the preservation and promotion of the group identity of the minority; the other is the search for constructive organizational, legal and administrative structures.

21. These additional rights could be listed on an ascending scale of comprehensiveness: the right to organize private schools, the right to receive public subventions for schools run by the minority, the right to control taxation for activities run by the minority, the right to be consulted

regarding decisions, projects and programmes affecting the minority (including developmnt co-operation), the right to make such projects and programmes dependent on free and informed consent, the right to control natural resources in regions in which the minority live, and ultimately, and in exceptional cases, the right to autonomy.

22. Autonomy, which would be applicable only in very special cases, could encompass a wide range of specific functions, as proposed in article 23 of the draft declaration on indigenous rights which includes:

> "... education, information, culture, religion, health, housing, social welfare, traditional and other economic activities, land and resources administration and the environment, as well as internal taxation for financing these autonomous functions".

23. Article 23, referred to above, represents the highest possible level of minority rights. In some cases it may be implemented by way of federal arrangements, in other cases by a devolution of power. To include also control over foreign affairs, defence and monetary matters, would in fact mean to take the full step to self-determination. This would then be beyond the scope of the present study.

24. Between the minimum standards contained in article 27 of the Covenant on Civil and Political Rights and the maximum aspiration of autonomy as presently formulated in article 23 of the draft declaration of indigenous rights, are found the solutions made in real life. The choice should depend on a pragmatic analysis of the real needs; no general formula can be applicable to the great diversity of situations found around the world today.

Existing or proposed rights affecting minorities

25. While the purpose of this study is not to present or analyse the rights applicable to minorities, it is necessary nevertheless to take into account the rights that do exist or are being proposed. These are of two main categories: provisions concerning non-discrimination, and provisions relating to special rights of minorities, or individual members of minorities.

26. Among the former we find various provisions in the Universal Declaration of Human Rights, in the two Covenants of 1966, and in particular in the International Convention on the Elimination of All Forms of Racial Discrimination. Among the rights pertaining to minorities or members thereof, including indigenous peoples, reference has already been made to article 27 of the International Covenant on Civil and Political Rights. Relevant also is the Convention on the Prevention and Punishment of the Crime of Genocide, the International Convention on the Elimination of All Forms of Racial Discrimination (art. 2, para. 2), some of the provisions of the new Convention on the Rights of the Child, the UNESCO Convention against Discrimination in Education, and the new International Labour Organisation Convention (No. 169 of 1989) concerning Indigenous and Tribal Peoples in Independent Countries. Account should also be taken of Principle VII of the Helsinki Final Act and articles 18 and 19 of the Concluding Document of Vienna.

27. A number of international instruments adopted before World War II contain provisions on minority protection. The more comprehensive approach to human rights adopted after the war, however, gave priority to individual human rights and relegated group rights to a secondary position. The principles of equality and non-discrimination for every individual was generally held to make superfluous the protection of minorities as groups.

28. The question has nevertheless been raised recently as to whether the provisions concerning minority protection in some of the peace treaties concluded after World War I, in particular the Peace Treaty of Lausanne (affecting Greece and Turkey), the Peace Treaty of St. Germain (affecting Austria), the Peace Treaty with Bulgaria (Neuilly, 27 November 1919), and the Peace Treaty with Hungary (Trianon, 4 June 1920), continue to be valid. The United Nations Secretary-General, in his Study on the Legal Validity of the Undertakings Concerning Minorities (E/CN.4/367 and Add.1, Chap. XIV), basing himself on the principle of changed circumstances (clausula rebus sic stantibus), held that the system of pre-war minority protection had ceased to exist. Danilo Türk, in a recent paper, "Minority Protection in Human Rights Conventions" 1/ argues that some of the provisions may still have legal effect.

29. In terms of proposed rights for minorities, special account should be taken of the proposed rights contained in the draft of the Working Group set up by the Commission on Human Rights (see E/CN.4/1990/41), which are found in annex II to the present report. Of interest is also the list of rights proposed in a first draft of principles on national minorities drawn up by the European Commission of Democracy through Law, set up by the Committee of Ministers of the Council of Europe on 10 May 1990. The draft principles proposed by the European Commission for Democracy through Law on 29 May 1990 are included as annex III to this report. The draft declaration on indigenous peoples' rights should also be consulted.

1/ The paper was presented to a conference in Copenhagen on 30 March-1 April 1990, organized by the Danish Helsinki Committee and the Minority Rights Group. Its theme was "Minority rights" - policies and practices in South-East Europe".

IV. "PEACEFUL AND CONSTRUCTIVE": THE DIVERSITY OF SITUATIONS

30. The main purpose of this report is to explore possible ways and means to facilitate peaceful and constructive solutions of minority situations. It is necessary, therefore, to examine the nature of such situations, and the factors influencing potential conflicts and their dynamics.

31. The great variations in minority situations should be taken into account. This has been one of the main stumbling blocks in the search for a definition of "minority". All efforts to obtain a general definition have so far failed, and it is submitted that they will continue to fail. It is necessary to take into account the very substantial divergences which exist both in objective conditions, in subjective identifications, and in conceptual terminology. Briefly addressing the latter point, the use of concepts differs from country to country. What is defined as a minority in one country may be called a nationality, or coinhabiting nationality, in other countries. A third concept frequently used is that of "ethnic group". For the purpose of the present study, the word "minority" will be used in a wide sense, covering nationalities and ethnic groups in multinational States.

32. There are both problems as well as benefits arising from the coexistence, within a given sovereign State, of several nationalities, ethnic groups, linguistic or religious groups. The basic task is to reconcile the pluralism which then exists in that State, and the need to respect the identity of the various groups, with the overall concerns of non-discrimination, equality, national security, territorial integrity, and political independence. Many States have shown that this can be done; others have not, so far, found a fully satisfactory and constructive solution and are therefore experiencing destructive conflicts and repressive policies.

33. Numerous classifications of nationalities, ethnic groups, minorities, linguistic or religious groups have been proposed in the past. One major distinction seems to be plausible: between "settled" minorities, on the one hand, and "recent immigrant" minorities on the other. The former refers to minorities (nationalities, etc.) which have lived in the country concerned for a long period of time. Some of them may have been the first inhabitants of the country (indigenous peoples), but the notion "settled minorities" encompasses also others who have come later but are now firmly settled in the country.

34. "Recent immigrant" minorities include newly arrived immigrants, migrant workers, refugees, other non-nationals and stateless persons. It may be plausible to have somewhat different approaches to these two categories of minorities. For recent immigrant groups, the main human rights concern should be to avoid discrimination and to ensure equality as far as possible. This is presently done by the use of separate international instruments directly addressed to the rights of aliens, refugees, and migrant workers. For settled minorities, there is a greater need for the additional rights indicated above. The distinction between the two categories is tentative, however, and should be further explored in the subsequent elaboration of this study.

35. One set of problems arises from the process of economic development. Conflicts are likely to intensify when there is unequal development and some ethnic groups or minorities lag behind others in the overall national development. It is aggravated in times of economic recession when some groups

experience more deprivation than others. When this manifests itself in a higher rate of unemployment, it is likely to generate unrest among unemployed youth, whose frustration and anger unfortunately often are diverted into irrational ethnic conflict. Ideally, development processes should remove or reduce economic and social obstacles to co-operation and mutual respect among all groups in national society; if development processes are misdirected, they may unfortunately have the opposite effect.

36. This is one among several factors that may generate ethnic conflict, which sometimes can become extremely violent, irrational, emotional and long-enduring. In order to achieve a better understanding of such conflicts, we need to move outside the framework of human rights law and to draw lessons from insights obtained in other disciplines, such as psychiatry, anthropology, sociology, conflict studies and international relations.

37. It is a most welcome coincidence that the United Nations Research Institute on Social Development (UNRISD) in 1990 has embarked upon a major comparative study of the causes and consequences of ethnic conflict. A somewhat similar initiative has been taken by the United Nations University. The insights gained through these studies are likely to facilitate the understanding of the nature of the dynamics of conflict. We will hopefully also learn more about how the respect or denial of minority rights influence the gravity of conflicts. It is intended in the subsequent elaboration of this study to take the findings of the UNRISD and UNU projects into account, as well as insights gained by other research in the field of ethnic conflict.

38. It needs to be underlined that ethnic conflicts can sometimes be extremely destructive, and that it is therefore essential to find appropriate ways of managing ethnic and minority relations in a constructive and peaceful way, which is the object of this particular study.

39. Ethnic conflicts within a country very often also pose risks to regional security. The possibility of external involvement by neighbouring countries whose nationals belong to the same ethnic or linguistic group as those of the minority in the country where the conflict has erupted, has caused very serious security repercussions in the past and is likely to continue to do so in the future, unless constructive approaches can be found.

40. The broader international security situation will also affect the intensity of ethnic conflict. The northern part of the world has for the last 40 years lived in a highly polarized security situation, in which the East-West confrontation has been overriding ethnic and regional divergences in different parts of Europe. Ethnic conflicts have been kept under relatively strict control. Due to the greatly improved political climate of confidence between East and West in recent years, it can be observed that ethnic tension, which for so long has been repressed, has now come more into the open. There is an urgent need for approaches which can combine the recognition of minority rights with institutions and procedures to reduce or prevent future conflicts.

41. Faced with the complexities mentioned above, it may well be asked whether it is at all possible to find generally applicable models to handle the different situations where minorities are involved. Obviously caution is required, as is shown by the fact that efforts within the United Nations to adopt minority rights so far have led to very limited results. However, the urgency of the problem, the destructiveness of violent ethnic conflict and the

extensive human rights violations connected with denial of minority rights, all point to the need to do whatever is possible to find better approaches for the future.

42. This will have to be done by combining two basic approaches: on the one hand, to clarify minority rights and their relative applicability in different minority situations; on the other hand, to harmonize this concern with the application of a set of other principles which are of equal importance to those of minority rights. At least two of these need to be underlined: one, to promote the rights and development of minorities in a manner that is consistent with the unity and stability of States, their territorial integrity and political independence, in the light of the Declaration of Principles on Friendly Relations and Co-operation among States; the other is the necessity to ensure that members of minorities also respect and protect all individual human rights as set out in the Universal Declaration on Human Rights, in relation both to their own members and to the members of the majority.

43. If this is strictly observed, and paramount importance is given to the respect and protection at all times of the right to life, ethnic conflicts could be held at a non-violent level and thus be more easily and constructively managed to the benefit of everyone involved. Unfortunately, emotions and the creation and reinforcement of a negative image of others as an enemy, as conflicts escalate, often get out of hand, resulting in strong responses by security forces, which in turn may intensify hostility and antagonism.

44. In the search for models for a peaceful and constructive solution of situations involving minorities, at least two concerns are involved: on the one hand, to clarify the scope of minority rights as applicable to the situation; on the other hand, to ensure the existence and effective operation of national institutions and procedures to deal with ethnic relations, minority rights, and non-discrimination. The main purpose of the study will therefore be to look at these two aspects of the problem.

V. SOURCES OF INFORMATION

45. In the exploration of national experiences in this field, two sources of information will be given particular attention. One set of sources is constituted by the reports which have already been presented by States to the treaty bodies of the United Nations. Two of these are of particular importance here: the reports to the Human Rights Committee, and those submitted to the Committee on the Elimination of Racial Discrimination. From reports submitted under these conventions will be extracted information concerning minorities and ethnic groups, non-discrimination as well as the existence of special rights. This information will be organized and analysed under the following main headings:

(a) The kind of minority group (settled minorities, indigenous peoples, migrant workers and others - including immigrants, aliens and refugees);

(b) Constitutional arrangements (federal approaches, devolution of power and local autonomy, other forms of minority protection under the constitution, constitutional provisions concerning non-discrimination);

(c) Treaties (among States, or between States and minority groups or indigenous peoples);

(d) Legislative and administrative arrangements (non-discrimination; positive measures or affirmative action; autonomy; representation in national legislative bodies; representation in other legal/political institutions; participation in elections; access to public offices and public services in general; social and economic conditions; participation in planning, implementation and benefits of development activities, and the institutional means available; benefit from agrarian reform or resettlement programmes; educational/cultural institutions; minority languages; the maintenance of contact with other members of their group across State borders; arrangements for religious minorities);

(e) Procedures provided in order to ensure the respect of the rights granted to minorities;

(f) Relevant juridical decisions; and

(g) Other relevant information.

46. The compilation of information will mainly be drawn from the reports by States. Most reports provide information only on a few of these points, but taken together, a wider range of options emerging from these reports will be presented to the forty-third session of the Sub-Commission in 1991.

47. There is a need also for more specific information of direct relevance to the present study. For this reason, as was also suggested in the working paper which forms the origin of this study (E/CN.4/Sub.2/1989/43, presented by Ms. Claire Palley, a special questionnaire will be prepared to be sent to Governments and to interested non-governmental organizations, soliciting information of a specific and practical nature. A proposed questionnaire was contained in the working paper; a slightly revised version is found in annex I to this report.

48. In determining the content of the questionnaire, unnecessary overlap should be avoided with information already provided by States in compliance with their reporting obligations under the different conventions. Special emphasis should be given to the main concern of this study, which is the search for peaceful and constructive solutions of situations involving minorities.

49. In line with the preceding discussion, the questionnaire should therefore be seeking information on three points: (a) whether the existence of minorities or different ethnic, linguistic or cultural groups are recognized in the State concerned, and the rights which have been granted; (b) the institutions and procedures used at the national level to manage ethnic relations and minority situations; (c) the experiences gained by the use of such institutions and procedures, with special emphasis on the obstacles encountered, in order to learn not only from successful but also unsuccessful efforts.

50. It is to be hoped that a frank and open discussion of the problems and the possibilities can be obtained through this effort. The purpose is not to criticize, but to recognize the difficulties in managing such situations. A sober analysis of different experiences may be of great use to Governments faced with such difficulties.

51. Another problem to be faced in drawing up the questionnaire is whether a distinction should be made between settled minorities and recent immigrant minorities. I would welcome a discussion in the Sub-Commission at this forty-second session of this question. Pending that discussion, the distinction as proposed has been made in the proposed questionnaire.

Annex I

Questionnaire

Introduction

1. The Sub-Commission on Prevention of Discrimination and Protection of Minorities, in its resolution 1989/44, entrusted Mr. Asbjørn Eide with the preparation of national experience regarding peaceful and constructive solutions of situations involving minorities. The resolution was endorsed by the Human Rights Commission in its decision 1990/105.

2. In compliance with this mandate, the Rapporteur is in need of collaboration with Governments, and with interested non-governmental organizations, to obtain information and suggestions concerning peaceful and constructive solutions of such situations. This is the purpose of the present questionnaire.

3. Governments, in responding to this request, do not have to duplicate information submitted under relevant reporting procedures within the United Nations system. In regard to questions contained in the present document which have been covered in other reports, a reference to such reports is sufficient. It should be noted, however, that most questions here contained are different from those listed for submission of State reports under existing treaty provisions, and it will therefore be appreciated if each of the questions below is studied carefully to provide answers which can be of use in completing this study.

4. While the main purpose is to explore positive and constructive solutions, it is essential that the responses under each question also indicate the obstacles encountered, if any, and ways in which these have been overcome. This will facilitate the understanding of the best ways to handle such situations.

5. The study does not make use of a precise definition of "minorities". The term is used here in a very broad sense, meaning nationalities, ethnic, linguistic or cultural groups which in significant respects are different from other groups inside a sovereign State.

6. A distinction is made here between "settled minorities" and "recent immigrant groups". The latter is understood to mean aliens in general, immigrants who have not yet become citizens, refugees and asylum seekers, and migrant workers.

7. Wherever there is a question related to the enjoyment of own cultural institutions and practices, of the groups or minorities, it is understood that such institutions must always operate within the limits of the internationally recognized fundamental freedoms and human rights of the individual.

I. Questions related to settled minority groups

8. Do minority groups, as understood in this questionnaire (see introduction) exist in your country/in the country concerned?

9. Are they recognized as separate minorities, or as national, ethnic or linguistic groups, in the legal and political institutions of the country? What obstacles have been encountered, if any, concerning such recognition?

10. Does such recognition consist in a federal structure, devolution of power, local autonomy, or does it take other forms? Please describe, and indicate the obstacles encountered, if any.

11. Do such groups or minorities maintain or enjoy cultural and/or educational institutions specifically devoted to meet their needs?

12. Have linguistic minorities the freedom and possibility to receive education in their own language?

13. Have such groups or their representatives the right and possibility to participate in the planning, implementation and benefits of development policies?

14. In regard to economic conditions of such groups or minorities, is their average standard of living, life expectancy and child mortality approximately the same as that of the national average? If not, is it lower or higher than the national average?

15. Where federal structures exist based on criteria of nationality, the response to question 7 should compare both the situation among the different nationalities within the federation and that of the different ethnic and linguistic groups inside each of the member States, or republics, of the federation.

16. If some minorities/groups are disadvantaged relative to the national average, have they been provided with the opportunity to improve their situation by their own efforts?

17. Have disadvantaged minorities/groups benefited from policies of affirmative action?

18. Do minorities have direct representation in national legislatures?

19. Have members of such minorities/groups benefited from agrarian reform measures or resettlement programmes?

20. Have members of such groups unimpeded possibility of contact with related ethnic, cultural or linguistic groups in other states?

II. Questions related to recent immigrant groups

21. What steps have been taken, and what obstacles have been encountered to ensure that recent immigrant groups (as understood in this study, see introduction) are not subjected to racial discrimination?

22. What steps have been taken to ensure equality for members of such groups with those of the nationals of the country concerned, in the enjoyment of human rights and fundamental freedoms?

23. Do members of such groups have the opportunity to receive part of their education in their own language and to enjoy their own cultural institutions? Please describe obstacles encountered in this regard.

Annex II

TEXT OF THE DRAFT DECLARATION AS ADOPTED ON FIRST READING

Draft declaration on the rights of persons belonging to national or ethnic, religious or linguistic minorities

The General Assembly,

Reaffirming that one of the basic aims of the United Nations, as proclaimed in its Charter, is to promote and encourage respect for human rights and for fundamental freedoms for all, without distinction as to race, sex, language or religion,

[Reaffirming] [Reiterating] [Declaring] faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small,

Desiring to promote the realization of the principles [concerning the rights of] [persons belong to] [minorities] which form the basis of the Charter of the United Nations, the Universal Declaration of Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide and the International Convention on the Elimination of All Forms of Racial Discrimination as well as other relevant international instruments [that have been adopted at the universal or regional level and those concluded between individual States Members of the United Nations],

Inspired by [Based on] the provisions of article 27 of the International Covenant on Civil and Political Rights concerning the rights of persons belonging to ethnic, religious or linguistic minorities,

Considering that the promotion and protection of the rights of persons belonging to [national or] ethnic, religious or linguistic minorities contribute to the political and social stability of States in which they live,

Confirming that friendly relations and co-operation among States, which take place in the spirit of the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, contribute to international peace and security and to the creation of more favourable conditions for the realization and promotion of human rights, including the rights of [persons belonging to] [national or], ethnic, linguistic and religious minorities,

Emphasizing that the constant promotion and realization of the rights of persons belonging to minorities, as an integral part of the development society as a whole and within the constitutional framework, would in turn contribute to the strengthening of friendship and co-operation among peoples and States,

Bearing in mind the work done so far within the United Nations system, in particular the Commission on Human Rights, the Sub-Commission on Prevention of Discrimination and Protection of Minorities as well as the bodies established pursuant to the International Covenants on Human Rights and other relevant international human rights instruments on promoting and protecting the rights of persons belonging to [national or] ethnic, religious or linguistic minorities,

Recognizing the need to ensure even more effective implementation of international human rights instruments relating to the rights of persons belonging to [national or] ethnic, religious or linguistic minorities,

Proclaim this Declaration on the Rights of Persons Belonging to [National or] Ethnic, Religious or Linguistic Minorities:

Article 1

1. [Persons belonging to] [national or] ethnic, linguistic and religious minorities (hereinafter referred to as minorities) have the right to respect for, and the promotion of, their ethnic, cultural, linguistic and religious identity without any discrimination.

2. [Persons belonging to] minorities have the right to life, liberty and security of person and all other human rights and freedoms without discrimination.

Article 2

1. In accordance with the Charter of the United Nations and other relevant international instruments, [persons belonging to] minorities have the right to be protected against any activity, including propaganda, [directed against minorities] which:

(i) may threaten their existence [or identity];

(ii) [interferes with their freedom of expression or association] [or the development of their own characteristics]; or

(iii) otherwise prevents their full enjoyment and exercise of universally recognized human rights and fundamental freedoms.

2. In accordance with their respective constitutional processes [and in accordance with the relevant international treaties to which they are parties], all States shall undertake to adopt legislative or other appropriate measures to prevent and combat such activities, with due regard to the principles embodied in this Declaration and in the Universal Declaration of Human Rights.

Article 3

1. [Persons belonging to] minorities have the right, individually or in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, and to use their own language, freely and without interference or any form of discrimination.

2. All States [which have not yet done so] shall [take measures to create favourable conditions to enable [persons belonging to] minorities to freely]/[ensure that [persons belonging to] minorities are freely able to] express their characteristics, to develop their [education], culture, language, religion, traditions and customs, and to participate on an equitable basis in the cultural, religious, social, economic and political life in the country where they live.

3. To the same ends, persons belonging to minorities shall enjoy, without any discrimination, the right to establish and maintain contacts with other members of their group [and with other minorities], especially by exercise of residence within the borders of each State, and the right to leave any country, including their own, and to return to their countries. [This right shall be exercised in accordance with national legislation and relevant international human rights instruments.]

Article 4

1. All States shall take legislative or other appropriate and effective measures, especially in the fields of teaching, education, culture and information, to promote and protect the human rights and fundamental freedoms of [persons belonging to] minorities.

2. Such measures shall include facilitation of the enjoyment by [persons belonging to] minorities of their freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, in particular through utilization of all forms of communication. [This freedom shall be exercised in accordance with national legislation and relevant international human rights instruments.]

3. Such measures should also include the exchange of information [and experience] among States in the aforementioned fields, with a view to strengthening mutual understanding, tolerance and friendship among all people, including [persons belonging to] minorities, [as well as to develop further friendly relations and co-operation among States in accordance with the Charter of the United Nations.]/[as well as to develop further international co-operation in the spirit of the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations.]

Article 5

1. Nothing in this Declaration shall prevent the fulfilment of international obligations of States in relation to [persons belonging to] minorities. In particular, States shall fulfil in good faith the obligations and commitments they have assumed under international treaties and agreements to which they are parties.

2. This Declaration shall not prejudice the enjoyment by all persons of universally recognized human rights and fundamental freedoms.

3. Nothing in the present Declaration may be construed as permitting any activity contrary to the purposes and principles of the United Nations and, in particular, contrary to the sovereignty, territorial integrity and political independence of States.

4. In exercising their rights [persons belonging to] minorities shall respect the universally recognized human rights and fundamental freedoms of others.

[Article 6

Member States of the United Nations shall endeavour, depending on their specific conditions, to create favourable political, educational, cultural and other conditions and to adopt adequate measures for the protection and promotion of the rights of minorities proclaimed in this Declaration.]

Article 7

(a) [Persons belonging to] [national], ethnic, religious or linguistic minorities have the right to preserve their identity, and to participate effectively in the affairs of the State, and in decisions concerning the regions in which they live [through national institutions and, where possible, regional institutions].

(b) National policies and programmes, as well as programmes of international co-operation and assistance, shall be planned and implemented with due regard for their legitimate interests.

Article 8

The organs and specialized agencies of the United Nations system shall contribute to the full realization of the rights and principles set forth in this Declaration, within their respective fields of competence.

New article

This Declaration shall be carried out in a spirit of mutual understanding, tolerance, [good neighbourliness] and friendship among States and [all peoples]/[peoples] and [national], racial, ethnic, religious and linguistic groups in conformity with the purposes and principles of the United Nations.

To be included within a resolution accompanying the Declaration

(i) The Secretary-General shall organize regional and global technical meetings to stimulate an exchange of experience in this field among governments and with the people affected by this Declaration;

(ii) The Sub-Commission on the Prevention of Discrimination and Protection of Minorities shall undertake annually a review of the national and international measures which have been taken for the implementation of this Declaration, and report on the problems encountered and progress achieved;

(iii) States shall provide, as far as possible, information on the identity, numbers, location, organization, and social and economic characteristics of minorities in their reports to bodies established under United Nations conventions in the field of human rights;

(iv) United Nations organs and specialized agencies shall give special consideration to requests for technical co-operation and assistance that are designed to achieve the aims of this Declaration.

Annex III

SET OF PRINCIPLES ON NATIONAL MINORITIES DRAWN UP BY THE EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW

Introduction

The European Commission for Democracy through Law set up by the resolution adopted by the Committee of Ministers of the Council of Europe on 10 May 1990 started to examine the problem of the protection of minorities in Europe.

For the time being, it has agreed on a number of principles which apply to national minorities, i.e. groups of people who are nationals of the State concerned and which could be incorporated into a legal instrument.

To this end they will form the basis of further work and in-depth study.

The Commission already believes that the drawing up of a binding European legal instrument would offer in the long run the best solution to these problems.

The experience and results already obtained, notably in the field of human rights as well as of other intergovernmental and parliamentarian works on minorities under way within the Council of Europe, could make this Organization the appropriate forum for the continuation of this initiative.

I. General Principles

1. The international protection of ethnic, linguistic and religious minorities must be a fundamental component of the international protection of human rights, and as such fall within the scope of inter-State co-operation. It represents a basic element of peace and stability in Europe.

2. The international protection of minorities does not permit any activity which is contrary to the fundamental principles of international law and in particular of sovereignty, territorial integrity and political independence of States.

3. The international protection of minorities must be conducted in good faith, in a spirit of understanding, tolerance and good neighbourliness between States.

4. For the purposes of this text, "minority" shall mean a group which is smaller in number than the rest of the population of a State, whose members, although nationals of that State, have ethnical, religious or linguistic features different from those of the rest of the population, and are guided by the will to safeguard their culture, traditions, religion or language.

Any group complying with the terms of this definition has the right to be recognized as an ethnic, religious or linguistic minority.

II. Rights of Minorities

5. Minorities have the right to the respect, sareguard and development of their ethnical, religious, cultural or linguistic identity.

They shall have the right to be protected against any activity capable of threatening their existence.

6. Any person belonging to a minority has the right to enjoy the same rights as any other citizen, without any distinction and on an equal footing.

The adoption of special measures in favour of minorities or of their members, aimed at promoting equality between minorities and the rest of the population or at taking due account of the specific conditions of minorities, is not considered as an act of discrimination.

7. Any person belonging to a minority shall have the right to associate and to maintain relations, notably with other members of the same group, including across national borders. This right includes notably the right to leave one's country and to go back to it.

8. Any person belonging to a minority shall have the right to a real participation in the State's affairs, and in particular in the decisions affecting the regions where he lives.

9. Any person belonging to a minority shall have the right to his own cultural life.

10. Any person belonging to a linguistic minority shall have the right to use his language freely, in public as well as in private.

11. Whenever the minority reaches a high percentage of the population of a region or of the total population, its members should have the right to speak and write in their own language to the political, administrative and judicial authorities of this region or, where appropriate, of the State. These authorities should have a corresponding obligation.

12. In State schools, obligatory schooling is given in the mother tongue of the pupils belonging to a minority. However, should the State not be in a position to provide such schooling, it must permit children who so wish to attend private schools. The State has the right to prescribe that the language spoken by the majority also be taught in such schools.

13. Any person belonging to a religious minority has the right to manifest his religion or belief, either alone or in community with others and in public or private, in worship, teaching, practice or observance, in conformity with the international instruments on human rights.

14. Any person belonging to a minority whose rights herein set forth are violated shall have an effective remedy before a national authority.

III. Obligations of States

15. The States refrain from pursuing or encouraging policies aimed at the assimilation of minorities or aimed at intentionally modifying the proportions of the population in the regions inhabited by minorities.

16. As far as possible, States bear minorities in mind when dividing the national territory into political and administrative sub-divisions, as well as into constituencies.

IV. Obligations of Minorities

17. Any person who belongs to a minority fulfils loyally his obligations connected with his status as a national of his State.

18. In the exercise of his rights any person who belongs to a minority respects the rights of others, in particular those of the members of the majority and of other minorities.

The States take all the necessary measures with a view to ensuring that, in any region where those who belong to a minority represent the majority of the population of that region, those who do not belong to the minority shall not suffer from any discrimination.

V. Protection Machinery

19. To ensure that the rights set forth above are respected, it is indispensable that States study the possibility of establishing a European mechanism for the protection of the rights of minorities.